

23.09.2024
Sl. No. 17.
D/L.
Mithun
Ct.No.25.

WPA 20575 of 2024

Samrat Bit
Vs.
The State of West Bengal & Ors.

Sk. Samim Akhter
..for the petitioner

Ms. Kakali Dutta
...for respondent no.7.

Mr. Pantu Deb Roy, AGP,
Mr. Pannalal Bandopadhyay
...for the State.

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

The petitioner has come up before this Court, in
this case, to seek a direction that his representation
challenging grant of permit to the private respondent
i.e. dated July 18, 2024 be considered and disposed of
by the respondent, Regional Transport Authority,
Hooghly.

Mr.Sk. Samim Akhter, appearing for the
petitioner submits that the permit of the petitioner was
revoked by the concerned respondent by dint of an
order dated June 19, 2024. On July 18, 2024 the writ
petitioner has submitted his representation, seeking
redress of his grievance of cancellation/revocation of
his permit. He seeks that, his such representation

should immediately be considered by the respondent authorities.

To such submission, Ms. Dutta appearing for the private respondent has serious objection. Ms. Dutta says that the writ petitioner is not an existing operator who can maintain a writ petition on his own behalf before this Court for the reason that he not being an existing operator would not have any legal right infringed by any so-called alleged inaction of the respondent authority. On the other hand, it is submitted, the present petition is a counter blast and motivatedly filed by the present writ petitioner which is not maintainable in the eye of law. In support of his submission Ms. Dutta relied on a Full Bench decision of this Court reported in **2015 (2) CHN (CAL) 185(Pravhat Pan & ors. vs. The State of West Bengal & Ors.)** to submit that it is permissible under law that any of the existing permit holder or operator may raise an objection as to grant of permit or plying vehicle by any other operators. But such right is not available to non-operator or a person not holding any permit.

For the reasons as above, Ms. Dutta is of the opinion that writ petition should be dismissed.

Mr. Pantu Deb Roy, appearing for the State. Considered the submission. Perused the materials on record and perused the judgment as relied on.

In accordance with the liberated policy pursuant to the Motor Vehicles Act, 1988, grant of permit to a person may be made a subject matter of challenge. The question is as to who is eligible to raise such challenge against grant of permit to a person, as has been done by the petitioner in this case against the private respondent. Is the liberated policy under the Act of 1988 should be stretched to the extent that each and every body on earth, may raise a challenge as against grant of permit to a person?

The Hon'ble Full Bench answers the same in the case of ***Prabhat Pan (supra)***, in following words:-

“44. Accordingly, the primary question raised in the two orders of reference is answered thus: subject to the considerations as to there being an efficacious alternative remedy, a writ petition at the instance of existing operators providing stage-carriage services on different routes, who seek to challenge the grant of fresh permits in favour of new operators (either on the self-same routes on which they have been operating or touching a portion of the same) by the transport authorities is maintainable if the challenge is on the ground of illegality or arbitrariness or colourable exercise of power or otherwise being violative of Article 14 of the Constitution, notwithstanding that the action may be impelled by the commercial interests of the existing operator; provided that, the substance of the challenge is not founded only on the commercial interests of the existing operator being prejudiced by the acts complained of.”

Thus the law is well settled that only an existing operator (may be of some other route), may raise an objection and challenge grant of permit to a person.

The petitioner claims to fall under the category of an existing operator on the date of his raising the objection, that is May 28, 2024, the date of his representation. However, immediately thereafter, the petitioner's permit was revoked, by dint of an order dated June 19, 2024. He has lost the status of the existing operator, with effect from the said date. Therefore, after June 19, 2024, the petitioner did not possess any legal right, relating to his permit, infringement of which he could have alleged about. And his prayer by dint of his representation dated May 28, 2024, has thus become redundant.

In the factual background as discussed above, the ratio decided in the case of ***Prabhat Pan (supra)***, squarely apply in the present case.

Thus the petitioner cannot be found to have an enforceable right, as against the State action of grant of permit to the private respondent. The present writ petition is devoid of any merit.

For the reasons as discussed above, the present writ petition being WPA No. 20575 of 2024 is dismissed.

Urgent Photostat certified copy of this order, if applied for, be given to its parties on usual undertaking.

(Rai Chattopadhyay, J.)