

12.11.2024.
PB
Sl. No.6.
Ct. No.25.

WPA 22301 of 2024

Santosh Dey & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Sanjay Saha,
Mr. Probal Sarkar,
Ms. Sk. Kiran.

... For the Petitioners.

Ms. Mousumi Bhowal.

...for the respondent no.6.

Mr. Pantu Deb Roy,
Mr. Pannalal Bandopadhyay.

... for the State.

The affidavit of service filed in Court is taken on record.

The report filed by the State respondent, is also taken on record.

The writ petitioners are the existing operators on various routes. However, allegedly, they do not ply their vehicles on those routes, but from Anandapur to Kheyadaha. Here they operate without the valid permit. Hence, they have been prompted to file an application dated September 14, 2019, before the RTO, South 24 Parganas, seeking modification/alteration of the route, in their respective permit. They are

aggrieved that their application as above, has never been considered by the said respondent Authority.

Mr. Saha appears for the petitioners and submits that by virtue of the provisions under section 80(3) of the Motor Vehicles Act, 1988, the writ petitioners as the existing operators, are entitled to seek alteration of the route, on which they operate. Hence, they file the application, as above. The respondent Authority has a statutory duty to consider the same and grant permission for alteration of the route. In such view of the matter, inaction by the statutory Authority in considering their prayer for alteration of the route, violates the petitioner's legal rights. Hence, this writ petition. He seeks an appropriate order.

Mr. Deb Roy for the State has raised serious objections as regards the contentions and prayer of the writ petitioners, as above. He would say that the petitioner's application for alteration of the route is not commensurate with the statutory provisions. He would say that in the guise of altering the route, the writ petitioners have proposed a different and new route altogether, other than the permitted route or any portion thereof. Therefore, the petitioner's application, not being commensurate with the statutory provisions, would not be eligible for any consideration whatsoever, Mr. Deb Roy would say.

Heard submissions, perused the records.

The writ petitioners being the operators of the various other routes, have sought to alter the permitted route, to the alignment, from Anandapur to Kheyadaha.

Chapter 'V' of the Motor Vehicles Act, 1988 provides for controlling regulations and measures for transport vehicles. Section 80 thereunder has provided for the procedure in applying for and grant of permit. Section 80 sub-section 3 is worth noting, which is quoted below:

"80. Procedure in applying for and granting permits. -

(3)An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or by altering the route or routes or area covered by it, or in the case of a stage carriage permit by increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit shall be treated as an application for the grant of a new permit:

Provided that it shall not be necessary so to treat an application made by the holder of stage carriage permit who provides the only service on any route to increase the frequency of the service so provided without any increase in the number of vehicles:

Provided further that,

(i)in the case of variation, the termini shall not be altered and the distance covered by the variation shall not exceed twenty-four kilometres;

(ii)in the case of extension, the distance covered by extension shall not exceed twenty-four kilometres from the termini,

and any such variation or extension within such limits shall be made only after the transport authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or extended or any part thereof."

The statutory provision as above has permitted for variation of the condition of a permit, even by

inclusion of a new route or routes. Therefore, only for the reason that the petitioners have prayed for variation to a new route, than as per the permit, would not be a sufficient ground for not considering the same. The statute, however, has pronounced certain conditions as to when such variation as prayed for may be granted, under clause (i) of the second proviso of section 80(3) of the Act of 1988, as quoted above. According to the same in case of variation of the route, the termini shall not be altered and the distance covered by the variation, shall not exceed twenty- four kilometers. An application for variation of the route in the existing permit, would be legible to be allowed, subject to fulfilment of the condition prescribed under clause-(i) of the second proviso of section 80(3) of the Act of 1988.

In case of the present writ petitioners, however, the Court finds the said condition to have remained unfulfilled. The writ petitioners though could have maintained their applications for variation of the route in the permit, but only subject to fulfilment of the condition as prescribed under the said provision of law, as discussed above. However, the petitioners, while proposing the new route, could not keep the termini point intact of the existing route, which renders their application as invalid and not maintainable in the eye of law. Hence, so far as their application for variation of the route dated September

14, 2019, is concerned, the same turns out to be invalid and not maintainable in the eye of law.

However, the petitioners cannot be restrained for applying afresh, for the permit on a new route, that is proposed by them. That is the statutory right of the petitioners and remain unaffected, for whatever reason.

Considering all as above, the Court finds it proper to dispose of the writ petition, with the following directions:

- (i) the writ petitioners shall be at liberty to file application for grant of permit for the route from Anandapur to Kheyadaha, before the concerned respondent Authority/respondent No.7 herein;
- (ii) upon receipt of such application, if any, the respondent No.7, shall consider the same dispose of; needless is to mention that upon consideration and finding such application of the petitioners, if any, to be in accordance with law and upon fulfillment of all the legal formalities, the said respondent shall take appropriate steps for grant of permit to the petitioners;
- (iii) if the prayer of the petitioners, if any, be denied, the said respondent shall

cite reasons and communicate its reasoned order to the writ petitioners, within one week from the date of such order.

The present writ petition being WPA No.22301 of 2024, is disposed of.

Since no affidavits are called for, the allegations made in the writ petition are deemed to have been denied by the respondents.

All parties are to act upon the server copy of this order duly downloaded from the official website of this Court.

(Rai Chattopadhyay, J.)