

WPA 22376 of 2024

**Subrata Shee
Vs.
State of West Bengal & Ors.**

**Mr. Barun Kumar Samanta,
... for the petitioner**

**Mr. Amal Kumar Sen, ld. A.G.P.,
Mr. Lal Mohan Basu.
... for the State**

1. Affidavit-of-service filed in Court today is taken on record.
2. The petitioner is an applicant before the State Transport Authority, West Bengal for an Inter-state route from Moyna to Bhubaneswar. By virtue of Board's resolution dated February 6, 2024, his prayer for grant of permit has been turned down, on the ground of no vacancy being available at that point of time.
3. Mr. Barun Kumar Samanta, learned counsel appearing for the petitioner in this case has challenged on behalf of his client, such finding of the Board. That is, particularly, on the ground that one vacancy has arisen in the fleet strength, in the said Inter-state route with effect from January 16, 2024, pursuant to surrender of permit of one of the operators therein.
4. He seeks an appropriate order to be passed in this regard, so that the petitioner's candidature may be considered as against the said vacancy which has arisen pursuant to the surrender of permit by the operator in the said route, on January 16, 2024.

5. Mr. Amal Kumar Sen, learned Additional Government Pleader is representing the State. He submits that after surrender of permit by the operator in a route there are certain specific statutory provisions requiring declaration of vacancy in the route. Only after declaration of vacancy the applications may be sought for from the intending operators and be considered for grant of permit.
6. Mr. Sen, would emphasize that before the vacancy being declared, no application against the vacancy if any, at all, can be considered and entertained.
7. Record reveals that an operator has surrendered his permanent permit on January 16, 2024. Though, in this regard, Mr. Sen submits that the fact whether the permit, which has been surrendered on January 16, 2024 pertains to the same route or not as has been applied for by the petitioner, is yet to be verified from the department.
8. Be that as it may, so far as surrendering of permanent permit by one of the operators on January 16, 2024, is concerned, the said fact is not denied by the respondent. Therefore, in accordance with the statutory provisions, the respondent State Transport Authority has to declare the vacancy if any, for the particular route, pursuant to surrender of permanent permit by an existing operator. It is only after declaration of vacancy that the petitioner or any other intending operation can respond to such declaration of vacancy, by filing applications and thereby take part in the process of selection of the operator, for grant of permit. In other words,

surrender of permit by any existing operator shall not be the requisite condition for filing applications for grant of permit, unless and until a vacancy be declared, seeking applications against the same.

- 9.** Since no vacancy notification was there, the Board in its resolution as mentioned above, has founded its decision on the ground that no vacancy was existing. However, the Board's decision dated February 6, 2024, regarding rejection of petitioner's application, is hereby set aside.
- 10.** It has been an admitted fact, in this case that since after surrendering permit by one of the existing operator on January 16, 2024, no vacancy as regards the same, has been declared, so that the intending operators may submit application for grant of permit as against the said vacancy. Therefore, the court finds that the respondent is required to issue vacancy notification with respect to the vacancy, which has arisen pursuant to surrender of permit by an existing operator.
- 11.** Hence, the present writ petition is being disposed of with the direction upon the respondent State Transport Authority to declare vacancy pursuant to surrender of permanent permit by one operator with respect to the concerned route and in terms of the statutory provisions, as expeditiously as possible and not later than eight weeks from the date of communication of copy of this order.
- 12.** Needless to mention that all eligible incumbents including the present petitioner if, he is so eligible, would be entitled to respond to such vacancy

advertisement and take part in the process of selection of operator by the concerned State Transport Authority, upon fulfilment of all statutory provisions.

- 13.** It is made clear that the present petitioner need not file any fresh application in response to such declaration of vacancy and the concerned respondent is directed to consider his application, already submitted and dealt with by it in its meeting dated February 6, 2024. The Board shall take decision with respect to the application so submitted by the intending incumbents including the present petitioner's application as mentioned above, to fill up the vacancy within a period of four weeks from the date of closure of submission of applications pursuant to the vacancy notification.
- 14.** The decision of the Board shall be communicated to the petitioner within one week from the date of its order.
- 15.** Since no affidavits are called for, allegations made in the writ petition, are deemed to have been denied by the respondents.
- 16.** This writ petition being WPA No. 22376 of 2024 is disposed of, along with the pending applications, if any.
- 17.** Urgent Photostat certified copy of this order duly downloaded from the official website of this Court upon compliance all legal formalities.

(Rai Chattopadhyay, J.)