

18
04.10.2024
Court No. 25
D.Hira

**WPA 22494 of 2024
With
CAN 1 of 2024**

**Santanu Koner
Vs.
The State of West Bengal & Ors.**

**Mr. N.I. Khan,
Mr. Amlan Kumar Mukherjee.
... for the petitioner**

**Mr. Dilip Kumar Samanta,
Mr. Biswapriya Samanta.
... for the applicant in
CAN 1 of 2024**

**Mr. Amal Kumar Sen, ld. A.G.P.,
Ms. Aslima Das (Sil).
... for the State**

1. Affidavit-of-service filed in Court today is taken on record.
2. CAN 1 of 2024 is an application, by the three applicants mentioned therein to pray for an order of this Court to add them as party respondents in this writ petition.
3. The applicants are the existing operators on the route Prantika to Durgapur Railway Station. However, the applicants have not enclosed any supporting document as regards their claim of being existing operators on the said route. Be that as it may, according to the applicants, grant of permit to the petitioner, if made, shall add to the already congested road and to the disadvantage of the commuters and local people. It will also have the propensity to affect the livelihood of the said

applicants adversely, pursuant to rise in the number of the vehicle to be plied on the said route.

4. Mr. Dilip Kumar Samanta, learned counsel is appearing for the applicants. He has raised objections as to the status of the writ petitioner to be an unemployed youth as affirmed in the affidavit by the writ petitioner. Thereafter, he has stated that for grant of permit the interest of the local people and commuters are paramount and the statutory authority cannot act overriding the benefit of the general people in the locality.
5. He says in the present case that grant of permit to the petitioner would only result into jeopardizing, the interest of the people at large within the locality. Therefore, he seeks that the applicants may be added as party respondents in this case to properly contest in the writ petition.
6. As regards the applicant's prayer made under CAN 1 of 2024, the writ petitioner/opposite party has vehement objections to raise. Mr. N.I. Khan, learned counsel appearing for the petitioner submitted that in accordance with law settled as on date, the existing operators would not be entitled to raise any objection as to grant of permit to an eligible person, in terms of the liberalized policy as enshrined in the Act of 1988. He would further say that the instant petition is a frivolous and motivated one in order to jeopardize the petitioner's statutory as well as legal rights, to be granted with a permit. He seeks that the present petition be dismissed.

7. Mr. Amal Kumar Sen, learned Additional Government Pleader, who has represented the State, submitted that the extent of right of the existing operators in case of grant of permit to an eligible person has been determined by the Hon'ble Supreme Court and the law is now thus well settled.
8. To this extent, Mr. Amal Kumar Sen, has supported the stand taken by Mr. N.I. Khan, on behalf of the petitioner/opposite party.
9. Heard the submissions and perused the records and considered.
10. This is an application for being added as parties in this case.
11. Therefore, in order to be successful in the same the applicants have to show that the order of the Court would affect their rights or that their participation in the proceeding would be imperative for the Court to reach to a proper finding after due adjudication of the issues. Unfortunately, none of these grounds have been pleaded or proved by the applicants in the present application being CAN 1 of 2024.
12. Instead, the Court is privileged to find the settled position of law as determined by the Hon'ble Supreme Court so far as the rights of the present applicants/existing operators are concerned that is, in the case of ***Mithilesh Garg vs. Union of India*** reported in ***AIR 1992 SC 443***.
13. In the said case, while discussing about the liberalized policy under the 1988 Act, the Hon'ble Supreme Court has elaborately narrated and determined that the existing operators shall not have

any predominant right to raise an objection, as to grant of permit to an intending person, who is otherwise eligible under the law for such a grant.

14. In view of the law being settled by dint of **Mithilesh Garg's** case (*supra*), the Court is inclined to find that the present application being CAN 1 of 2024 is de void of any merit and not maintainable.
15. On the finding as above, the application being CAN 1 of 2024 is dismissed.
16. In the present writ petition being WPA no. **22494 of 2024**, the petitioner has expressed his grievance as regards non-consideration of his application for grant of permit on the route, from Prantika to Durgapur Railway Station, that is, dated February 1, 2024.
17. Mr. Khan, submitted that duly filled up statutory form "I" along with the applicable fees, have been submitted by the petitioner with the respondent authority. He seeks that the authority be directed to consider his application for grant of permit as above.
18. Considering the contentions of the writ petitioner and his prayer, the writ petition is disposed of by directing the respondent no. 2, to consider petitioner's application as mentioned above that is, dated February 1, 2024.
19. In doing so, the respondent no. 2 shall afford opportunity of hearing to the petitioner and pass a reasoned order in case its decision is adverse to what the petitioner has prayed for. The decision of the respondent no. 2, if any, be communicated to the petitioner within one week from the date of its order. Needless to mention that, if the said authority finds

the petitioner's application in order and him as eligible for grant of permit, under the law, it shall proceed in accordance with law to grant of permit to the petitioner.

- 20.** The entire exercise as above shall be concluded by the respondent no. 2 within eight weeks from the date of communication of copy of this order.
- 21.** Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.
- 22.** This writ petition being WPA No. 22494 of 2024 is disposed of, along with the pending applications, if any.
- 23.** Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)