

WPA 24012 of 2024

**5.11.2024**  
ct.25, sl. 6  
sk

Sumanta Biswas  
vs  
The State of West Bengal & Ors.

Mr. Srikanta Chakraborty  
Mr. Anindya Halder  
...for the petitioner.

Mr. Asish Kr. Guha  
Mr. Rajendra Chaturvedi  
...for the State respondent.

Mr. Anindya Bose  
Mr. S.Maji  
Mr. S. Das  
.....for the respondent no. 5.

1. Affidavit of service filed by the petitioner is taken on record.
2. The writ petitioner challenges the impugned order of the respondent STA Board, West Bengal, dated 8th July, 2024, being aggrieved with the directions made therein against him, not to create any disturbances as to the operation and plying of vehicle by the respondent No.5/private respondent. The petitioner is also aggrieved that the unauthorised and illegal plying of vehicle by the said respondent was required to be restricted and/or cancelled by the STA West Bengal. However, instead of the same, the Board, by dint of the said impugned order, allowed and permitted the said respondent to operate on the route.
3. Mr. Chakraborty, Learned advocate appearing for the petitioner has indicated that this Court previously intervened into the matter by dint of its

order dated 2<sup>nd</sup> January, 2023 passed in WPA 17760 of 2022, thereby directing the respondent authority to consider the petitioner's application raising grievance against the plying of vehicle by the private respondent. However, it is stated that in the impugned order the directions of the Court as above has not been complied with by the respondent by considering the relevant points which were directed to be taken up, by the Court. Mr. Chakraborty would further mention the impugned order to be a fallacy by indicating that in its order dated 11th June 2024, the Board has relied on a report of the Motor Vehicle Inspector Barrackpore, dated 15th July, 2024. He says that the credibility of the order of the Board would be annihilated for the reason as above.

- 4.** Mr. Chakraborty, Learned advocate appearing for the petitioner would further say that the impugned decision of the respondent authority is based on no sufficient and cogent materials, so far as proof of scrapping of the vehicle is concerned.
- 5.** It is further submitted that the permit issued in favour of the private respondents would be an illegal exercise being not in conformity with the statutory provision, particularly that under Rule 141 of the West Bengal Motor Vehicle Rules, 1989.

6. Therefore, for such alleged illegalities, according to the petitioner, the necessary relief as prayed for in this case may be granted in favour of him.
7. To this contention and prayer of the petitioner, the private respondent has raised strong objection.
8. Mr. Bose, Learned advocate appearing for the private respondent has relied on the photocopy of a certificate dated 22<sup>nd</sup> December, 2018, indicating that after scrapping of the vehicle, certificate has duly been issued by the competent authority. It is stated that the impugned order has been passed by the Board, RTA, North 24-Parganas on the basis of the scrapping certificate as above validly issued by the competent authority. Mr. Bose, Learned advocate for the private respondent, has challenged the very maintainability of the writ petition, on the ground that according to the law, the existing operator would not have any authority or scope in accordance with law, to challenge grant of permit over the route, to the new applicants.
9. So far as the alleged violation of the Rules in case of grant of permit to the said respondent is concerned, according to the said respondent, the provisions under Rule 141 of the Rules of 1989 would attract in case of a new operator only, whereas the respondent is an operator, existing and operating for a considerable period of time. Hence, according to the respondent No.5, the arguments advanced in

this regard by the petitioner in misplaced and misconceived.

**10.** Further it is stated that challenge whatsoever to the decision of the Board, by the writ petitioner is motivated by his commercial interests only, which he cannot maintain in terms of the settled position of law. In this regard, a judgment of the Hon'ble Full Bench of this Court has been referred to, that is reported in **AIR 2015 Calcutta 112** [**Prabhat Pan and Others vs State of West Bengal and Others**]. By referring to the same, he would submit that as per the Court's verdict, a writ petition at the instance of existing operators challenging grant of fresh permit in favour of new operators would be 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. It is stated that the Court in the said judgment has deprecated maintainability of any challenge as to the grant of fresh permit, if the substance of the challenge is founded only on commercial interests of the existing operator being allegedly prejudiced.

**11.** Mr. Guha, Learned advocate is representing the State respondent. He would primarily support the decision of the Board, RTA, North 24-Parganas by

dint of its reasoned order, dated 8<sup>th</sup> July, 2024. However, he would seek leave of the Court to file a report as to the contentions and the prayer of the writ petitioner, in this case.

- 12.** Let an exhaustive report, substantiating the documents relied on by the Board, in its decision dated 8<sup>th</sup> July, 2024, along with the photocopies thereof be filed by the State respondent, within a period of three weeks from the date.
- 13.** The photocopy of the certificate dated 22<sup>nd</sup> December, 2018 be taken on record. Copy of the same be served upon the petitioner as well as the State.
- 14.** Exception to the report as above by the State respondent, if any, may be taken out within a period of one week from the service of copy of the report to the petitioner and the private respondent.
- 15.** Let the matter be adjourned today and be listed under the same heading in the monthly list of December, 2024.

**(Rai Chattopadhyay, J.)**