

09.12.2024.
PB
Sl. No.21.
Ct. No.25.

WPA 25617 of 2024
With
CAN 1 of 2024

Puspanjali Gaana
Vs.
The State of West Bengal & Ors.

Mr. N. I. Khan,
Mr. A. K. Mukherjee.
... For the Petitioner.

Mr. Arabinda Chatterjee,
Ms. Kakali Dutta.
.....for the added respondent.

Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas.
.....for the State.

The writ petitioner with the desire to make Clause 1A(d) of the reciprocal transport agreement to be effected by turning the route as the shortest one, has made an application before the State Transport Authorities, West Bengal and Orissa, which are the two States through which the route lies, requesting therein that the vehicle in the route from Puri to Tamluk may ply through "Contai" instead of "Bhagabanpur", as has been determined in the said reciprocal transport agreement.

Learned advocate for the petitioner seeks that such application of the writ petitioner be immediately

considered and decided by the State Transport Authority.

He would further submit that the route from Puri to Tamluk would be the most short and direct, if the vehicle plies through “Contai” instead of “Bhagabanpur”. Therefore, in terms of the said Clause in the reciprocal transport agreement, pursuant to which any alteration can be prayed for rectifying any discrepancies as regards the distance of the route, the petitioner has prayed for rectification of the route alignment in the manner as above. He seeks that necessary order be passed in this regard.

Mr. Chatterjee, learned advocate is appearing for the added respondent. So far as the petitioners are concerned, Mr. Chatterjee’s client is aggrieved that the petitioner is plying vehicle by violating the conditions of his own permit.

Secondly, Mr. Chatterjee would submit that since the route is covered under the reciprocal transport agreement in between the two States, any re-alignment should abide by the provisions of Section 88(5) and 88(6) of the Motor Vehicles Act, 1988. He would rely on the decision of the Hon’ble Division Bench in APO No.135 of 2023 (Shashi Pujan Vs. Shri Biswajit Chatterjee & Ors.), in this regard.

Mr. Deb Roy, learned advocate for the State respondent would seek for a direction to be made upon

the concerned respondent authority to consider petitioner's representation as above.

It appears that the petitioner has prayed for rectification of the route alignment from Puri to Tamluk by deleting the point of alignment of "Bhagabanpur" and inserting therein "Contai". The said provision speaks as follows:-

Clause 1(A) of the Reciprocal Transport Agreement has made provisions for "Stage Carriage Permits". Clause (d) thereunder is as follows:-

"The distance mentioned against each route alongwith alignment thereof under Annexure-A&B is considered as shortest and direct. If any discrepancy noticed in future regarding distance of the route, the route shall be surveyed by the respective State Transport Authority and corrected through correspondences, which shall not be treated as modification of agreement."

Accordingly, it appears that the provision as above, in the reciprocal transport agreement, provides for the shortest possible route alignment to be notified which would also be the most direct one. The said provision also empowers stakeholders to seek appropriate redress in case of any discrepancy, as regards length of the route is concerned.

Therefore, in terms of the said provision of the Reciprocal Transport Agreement, the petitioner has made his application that the shortest possible and

direct route from Puri to Tamluk would be through “Contai” and not “Bhagabanpur”. He therefore has made efforts for modification of the route alignment.

At this juncture, it is worth noting that in the judgment of Sujit Chatterjee (supra), the Hon’ble Division Bench of this Court has been pleased to hold that the amendment in the Reciprocal Transport Agreement should be published in the official gazette, only in terms of Section 88(5) and 88(6) of the Motor Vehicles Act, 1988.

No doubt, the prayer of the petitioner, if allowed, would amount to amendment of the Reciprocal Transport Agreement dated May 14, 2007, entered into between the said two States including the route itself. Accordingly, since the law is well settled in this regard by the judgment of the Hon’ble Division Bench of this Court, this Court has considered that while considering the representation of the petitioner, the State Transport Authority is duty bound to abide by the provisions of Section 88(5) and 88(6) of the Motor Vehicles Act, 1988, as envisaged, in the judgment of the Hon’ble Division Bench as above.

On the basis of the aforesaid discussion, the Court is inclined to dispose of the writ petition by directing the respondent nos.2 to 5 to consider and dispose of the representation filed by the petitioner dated September 4, 2024, in accordance with law as discussed above.

In doing so, the said respondent shall also take into consideration the objections dated August 13, 2024, already raised by the added respondent and afford opportunity of hearing to the petitioner as well as the added respondent.

Let a decision as to the representation of the writ petitioner dated September 4, 2024, be taken by the respondent nos.2 to 5 within a period of 8 weeks from the date of communication of the copy of this order, in the light of the discussions, as made hereinabove.

The respondent, as above, shall dispose of the application of the petitioner by dint of a reasoned order and communicate the same to the petitioner as well as the added respondent.

The writ petition is disposed.

The application being CAN 1 of 2024 is also disposed of.

Urgent certified photocopy of this order, if applied for, shall be supplied to the parties, on compliance of usual formalities.

(Rai Chattopadhyay, J.)