

ORDER SHEET

WPO/1011/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

DEBARGHYA DHAR MOHAPATRA
VS
THE STATE OF WEST BENGAL & ORS.

BEFORE:

The Hon'ble JUSTICE RAI CHATTOPADHYAY

Date : 7th November, 2024.

Appearance:

Mr. Sankar Nath Mukherjee, Adv.

Sk. Samim Akhter, Adv.

...for the petitioner

Mr. Amal Kr. Sen, Ld. A. G. P.

Ms. Sahina Sumi, Adv.

...for the State

The Court: The petitioner is aggrieved that without giving him an opportunity of hearing, his application for grant of permit was rejected by the STA Board, West Bengal, in its meeting and resolution dated 20th September, 2024. Hence, this writ petition is filed seeking appropriate redress.

Mr. Mukherjee represents the petitioner whereas Mr. Sen has been appointed by the Court to represent the State. Mr. Mukherjee would say by referring to a notice dated 1st October, 2024 that pursuant to the same one vacancy over the concerned route has been declared by the State Transport Authority, West Bengal. He would suggest that therefore it would not be appropriate to say that, on the date of consideration of the prayer of the writ petitioner, there happened to be no vacancy for the said route.

Mr. Sen while raising objection as to the contentions and prayer of the writ petitioner, has indicated that the State Transport Authority under provision of Section 80 Sub-section 2 first proviso, would be entitled to summarily reject the prayer for grant of permit of any person. Hence, the application of the petitioner dated 5th September, 2024 has been rejected by the State Transport Authority in its meeting dated 20th September, 2024, lawfully and validly, which cannot be challenged by the petitioner on the allegation of being illegal, in any way whatsoever. It is indicated that vacancy over the route was declared on a subsequent date. It is also stated that the respondent Authority has acted in compliance with the statutory power vested upon it. He seeks dismissal of the writ petition.

Considered the submissions.

It appears that the petitioner applied for grant of permit (two applications) on 5th September, 2024. The same appears to have been done in due compliance with the provisions under Section 80 Sub-section (1) of the Motor Vehicles Act, 1988. Admittedly, the petitioner has not been granted an opportunity of hearing before his such application was rejected by the Board, vide its resolution dated 20th September, 2024. It also appears from the records that the respondent Authority has declared one vacancy over the said route vide its notice dated 1st October, 2024.

Considering all above, this Court is of the view that the respondent Board having not granted an opportunity of hearing before rejecting the petitioner's prayer has acted devoid of and in violation of the tenets of reasonableness and petitioner's rights. In such view of the fact, the Court is inclined to set aside the resolution of the Board dated 20th September, 2024.

Since vacancy over the said route has already been declared, let the applications of the petitioner dated 5th September, 2024 (two applications) be considered along with that of the other incumbents, as against the said notice, by the respondent State Transport Authority Board, whenever the Board convenes meeting and takes up applications in response to notice dated 1st October, 2024 for filling up of the vacancy declared by the said notice.

The decision taken in the meeting of the Board as regards the petitioner's applications as above, shall be communicated to the petitioner within one week from the date of the order.

The writ petition stands allowed and disposed of.

Since no affidavit has been called for, the allegations made in the writ petition are deemed to have been denied.

Urgent certified website copies of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(RAI CHATTOPADHYAY, J.)