

WPA 3594 of 2025

Santanu Koner

Vs.

The State of West Bengal & Ors.

Mr. N.I. Khan,

Mr. Amlan Kumar Mukherjee,

Mr. Dilip Kumar Mondal.

... for the petitioner

Mr. Vimal Kumar Shahi, Id. A.G.P.,

Ms. Pratiti Das.

... for the State

1. An order dated September 25, 2024 of the District Magistrate and Chairman, Regional Transport Authority, Paschim Bardhaman is under challenge in the present writ petition.
2. The petitioner's previous case before this Court has been the other writ petition being WPA No. 22483 of 2024. The same was disposed of by dint of an order dated October 4, 2024, in which the Court has directed for consideration of petitioner's application for issuance of permit filed before the respondent authority and if found eligible, for grant of permit to him.
3. By virtue of the said order, the petitioner was required to be granted an opportunity of hearing before any decision was taken by the said respondent authority.
4. According to Mr. Khan, learned advocate for the petitioner, the instant impugned order suffers several irregularities, discrepancies and illegalities.
5. He says that the order bears inherent discrepancy in so far as the respondent authority though has stated

in the said order regarding consideration of the petitioner's case in terms of Court's order dated October 4, 2024, however, there would not be any reasonable explanation as to how therefor, the date of the order impugned remains to be September 25, 2024.

6. Mr. Khan has further stated that before delivery of the impugned order as above, the writ petitioner has not been granted any opportunity of hearing, in terms of Court's order dated October 4, 2024 and the same has been passed behind back of the writ petitioner.
7. It has further been submitted on behalf of the writ petitioner that his prayer for issuance of permit cannot be made subject to any objection raised by any existing operator, in view of the law prevalent in this regard.
8. In this regard, Mr. Khan, has relied on the judgment of the Hon'ble Supreme Court in ***Mithilesh Garg vs. Union of India*** reported in ***AIR 1992 SC 443***.
9. Mr. Khan has further submitted that ground of congestion cannot be raised by the Regional Transport Authority but pursuant to a notification, declaring a route as a congested one and not fit for grant of any new permit. It is submitted that a notification is required to be published is a precondition in terms of Section 71 (3)(a) of the Motor Vehicles Act, 1988.
10. Mr. Khan, has further stated that the grounds stated by the District Magistrate and Chairman Regional Transport Authority, Paschim Bardhaman in the impugned order as above to reject petitioner's

prayer that there would be a clash of timetable since the vehicles are already plying at 3 (three minutes interval only is also not maintainable as dispute if any, in this regard is only to be relegated to the competent authority, in terms of Rule 119 of the West Bengal Motor Vehicles Rules, 1989.

11. According to the petitioner, in terms of Section 80 of the Motor Vehicles Act, 1988, there would not be any legible ground or embargo for the respondent authority to refuse the petitioner's prayer for issuance of permit particularly without affording him an opportunity of hearing, which is also in violation of the Court's earlier order dated October 4, 2024.
12. For the reasons as above, Mr. Khan, has insisted that the present writ petition may be allowed.
13. Mr. Vimal Kumar Shahi, learned Additional Government Pleader is representing the State. So far as the discrepancies as pointed out by Mr. Khan in the impugned order regarding dates etc. Mr. Shahi, appears to be conceding to such submissions by Mr. N.I. Khan, learned counsel for the petitioner.
14. Mr. Shahi has however, relied on the same judgment of the Hon'ble Apex Court in the case of ***Mithilesh Garg (supra)*** to submit that though the law has been settled by the Supreme Court, by dint of the said judgment, the Apex Court has also left certain factors at the discretion of the Regional Transport Authority, which according to the Apex Court should be only within the comprehension of the Regional Authority.

- 15.** According to Mr. Shahi, the feasibility of the vehicles plying smoothly without any clash in the timetable should therefor, remain with the Regional Transport Authority, to decide.
- 16.** To that extent, Mr. Shahi has supported the order impugned that the District Magistrate and Chairman, Regional Transport Authority, Paschim Bardhaman shall have the authority to duly consider the feasibility of the prayer of the petitioner and reject it, if so found proper.
- 17.** Having heard both the learned counsels for the parties and perusing the materials available on record, this Court is of the considered opinion, firstly that the impugned order suffers from gross discrepancy and the same is anti-dated.
- 18.** The respondent authority as above, though have stated to have considered the petitioner's prayer, in terms of Court's order dated October 4, 2024, but has put the date of the order as September 25, 2024 which appears to be a gross discrepancy contained in the body of the order.
- 19.** Admittedly, the writ petitioner has not been granted any opportunity of hearing by the said authority.
- 20.** On that score, the Court is constrained to find that the respondent authority has violated this Court's earlier order dated October 4, 2024. The Court finds that the inherent infirmity in the impugned order dated September 25, 2024 renders the same as not maintainable.

21. Considering as above, the Court is inclined to allow the present writ petition with the following directions:-

(i). Impugned order dated September 25, 2024 is set aside.

(ii). Let the respondent no. 2/Regional Transport Authority, Paschim Bardhaman allow the petitioner an opportunity of hearing and thereafter, dispose of his application for issuance of permit as submitted by him in statutory form I with statutory fees on February 1, 2024, in accordance with law.

(iii). Let the exercise as above be concluded by the said authority within the period of four weeks from the date of communication of copy of this order.

22. Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.

23. With the above observations and directions, the writ petition being No **WPA 3594 of 2025** is disposed of, along with the pending applications, if any.

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

(Rai Chattopadhyay, J.)