

27-11-2025
ct no. 10
Sl.9
RP

WPA 8835 of 2025

Kinjal Dey

-Versus-

State of West Bengal & Ors.

Mr. Barun Kr. Samanta

...for the petitioner

Mr. Lal Mohan Basu.

...for the State

1. The petitioner states that the petitioner is carrying on a business of operating Special Stage Carriage Service (Mini Bus). It is submitted that the route No. S-166 Mini Bus is a notified route under RTI, Howrah Region. The fleet strength of the said route has been fixed by the gazetted notification in the year 2003 by the Government of West Bengal which notifies that the authority cannot issue permits exceeding the notified fleet strength.
2. The petitioner submits that he came to know about the existence of one vacancy for non-plying of the vehicle in the said route.
3. The petitioner submits that an application was made before the authority concerned

for obtaining new permit dated 01.07.2024 for the said route but the same was turned down by the authority concerned on the ground that no new application for permit shall be accepted till the publication of the vacancy notice.

4. The petitioner further made representation on 03.07.2024 before the authority concerned for obtaining new permanent stage carriage permit on route no. S-166 Mini Bus to consider the same in accordance with law.
5. Mr. Lal Mohan Basu learned Counsel appearing for the State submits that the application cannot be acceded to, until and unless the reason is known to the authority for non-plying in the said route by the vehicle owner.
6. It is also submitted that mere non-plying of the vehicle in the said route does not establish the existence of the vacancy. In order to ascertain the vacancy there is a proper procedure to be followed as laid down in the statute.
7. The learned Counsel also submits that it is incumbent upon the authority concerned

to bring it to the public domain by way of an announcement with regard to the availability of the vacancy of a particular route. The learned Counsel for the State relies upon two judgments passed by the Division Bench of this Hon'ble Court as indicated in paragraph 9 and 11 of its report filed by the Secretary of the Regional Transport Authority dated 18.11.2025 which is reproduced below:-

“9. In adherence to the direction passed by Hon'ble Justice Rajasekhar Mantha and Hon'ble Justice Supratim Bhattacharya by order dated 21.09.2023 in F.M.A. No. 1311 of 2022 (Nand Kishar Shaw & Ors. vs. State of West Bengal & Anr.), the RTA Board, in its meeting held on 30.12.2020, had decided that henceforth RTA Kolkata would issue notices inviting applications widely including publication of such notices on the Departmental website whenever any vacancy arises in any route, so as to provide the maximum number of common people an opportunity to apply for new offer letters.

11. This Authority is law-abiding and follows the Motor Vehicles Act, the Rules Departmental Orders, as well as every order passed by the Hon'ble Court from time to time. However, at present, this Authority is unable to fully comply with the direction passed in F.M.A. No. 1311 of 2022 due to another order passed by Hon'ble Justice T.S. Sivagnanam and Hon'ble Justice Hiranmay Bhattacharya on 12.09.2024 in WPA (p) 392 of 2024, directing the State Government to ensure that adequate parking spaces are available before issuance of any permit on any route.”

8. After hearing the parties, I am of the considered view that in order to resolve the issue of granting permits in respect of a route where there is an existence of a vacancy, the authorities shall ascertain by

adopting proper procedure otherwise the same shall run contrary to the mandate of the statute. If so required, the authority shall also issue a show-cause notice to the owner for not plying vehicle under Section 86 of the Motor Vehicles Act, for cancellation of his registration. Secondly, the authority shall also take appropriate steps to announce with regard to the vacancy of the said route in question subject to the knowledge of the availability of the vacancy.

9. At this stage, allowing the prayer of the petitioner for grant of permit does warrant, an interference to the procedure laid down in greater permits. It is made clear, that for every route the authorities shall act in a transparent manner for granting permits in that route where vacancies are created otherwise it shall dehor the provisions of law. The authority concerned being the Regional Transport Authority Board shall take necessary steps in accordance with law preferably within a period of 3 months for ascertaining whether the vacancy exists or not and if it is found that there is

a vacancy then the same shall be announced in the public domain.

10. It is also directed that at the time of considering the new applications for grant of permit in respect of the route in question, the case of the petitioner should be considered along with the other similarly situated applicants in accordance with law.

11. The instant writ petition being WPA 8835 of 2025 is disposed of without going into the merits of the case.

(Smita Das De, J.)