

**IN THE HIGH COURT AT CALCUTTA**  
(CIVIL APPELLATE JURISDICTION)

PRESENT:

**THE HON'BLE JUSTICE RAI CHATTOPADHYAY**

**W.P.A. 10057 of 2024**

(CAN 1/2025, CAN 2/2025)

**SUMAN SEN & ORS.**

**VS.**

***THE STATE OF WEST BENGAL & ORS.***

For the Petitioner : Mr. Sankar Nath Mukherjee, Adv.  
Mr. Niraj Gupta, Adv.  
Ms. Mansha Paswan, Adv.

For the State : Mr. Pantu Deb Roy, Ld. AGP  
Mr. S.G.Biswas, Adv.

For the added : Mr.N.I.Khan, Adv.  
respondent Mr. Amlan Kr. Mukherjee, Adv.

Hearing concluded on : 3rd March, 2025

Judgment on : 3<sup>rd</sup> March, 2025

**Rai Chattopadhyay, J. :-**

1. The writ petitioners and the added party [applicant in CAN No. 2 of 2015], have come up with the similar grievances that the Regional Transport Authority, Kolkata, is likely to

issue new permits on the route No.234 and 234/1, but completely ignoring the road conditions where blockages are created regularly as the buses are stranded upon the road itself and extreme congestion and hardship being created for the general commuters due to over congestion and lack of proper parking space.

2. The writ petitioners have made a representation before the authorities expressing their grievances as above, vide letter dated January 22, 2024 and the added respondents have filed their written representations to that effect before the authorities, i.e. dated November 6, 2024.

3. Mr. Mukherjee and Mr. Khan, learned advocates have represented the writ petitioners and the added parties respectively.

4. They stand on the same footing in this case, that they are the existing operators, who suffer from the heavy vehicle congestion over the route and due to non-availability of well identified parking spaces.

5. The some photographs have been provided with the records to show that buses are being parked on the route

thereby causing hindrance for communication of the other vehicles and causing difficulty to the ongoers.

6. Mr. Khan has indicated that pursuant to the Court's order, the policy decision has been undertaken by the Transport Department published in the official gazette dated August 6, 2004, which are as follows:-

- i) "No new bus route be formulated and permits be issued which may pass through the Central Business District, viz, Esplanade and Band Stand in Kolkata and Howrah Station and approach areas of Howrah Bridge (Rabindra Setu); till further orders;
- ii) No new permit for Stage Carriage shall be issued which may originate/terminate in Esplanade and Band Stand in Kolkata and Howrah Station;
- iii) No new bus route shall also be created/formulated in Kolkata and Howrah without creating any appropriate parking place having requisite amenities for both the passengers as well as the transport workers;
- iv) No new permit shall be issued for auto- rickshaw operating within Kolkata Metropolitan area".

7. The petitioner and the added party would say that no fresh permit can be granted on the route without providing for adequate space for parking of buses and without ensuring the convenience of the commuters.

8. Mr. Khan has also referred an order of the Hon'ble Division Bench in this regard i.e. dated September 12, 2024 in WPA (P)/392/2024 and submits that as per the Court's order, the respondent is duty bound to issue fresh permit only after ensuring adequate parking spaces duly identified for the vehicles plying on the route.

9. For the reason as above, the petitioner and the added party have prayed for a mandatory order upon the respondent/State not to issue any further permit over the concerned route.

10. Mr. Deb Roy, learned advocate for the State respondent has raised strong objection as to the prayer of the petitioners and the added party as above. According to Mr. Deb Roy since some of the permit holders on the said route have stopped plying their vehicles, there would not be any hindrance for the respondent State to fill up those vacancies by granting new permits.

11. Mr. Deb Roy would further deny any allegation of absence of adequate parking space on the route, as alleged.

12. On the contrary, Mr. Deb Roy would say that the petitioners or the added party have never come up with their grievances for any difficulty being faced by them in plying their vehicles over the route. Hence, such contentions of the petitioners are only afterthought and motivated, he says.

13. Admittedly the petitioners and the added party are the existing operators on the said route. Also as regards the fleet strength on the said route to be 70, there is no challenge put forth by any of the parties. Similarly, it is also undisputed that 14 vacancies now exist, due to non-renewal of permit by the equal number of bus owners on the route, who had previously been issued permits. In such circumstances the petitioner's prayer as above, appears to be not in conformity with the law and the liberalized policy promulgated under the Motor Vehicles Act, 1988, that issuance of permit should not be restrained at the instance of the existing permit holders, merely because of business rivalry and without any allegation of gross illegality in the process or prejudice being caused due to such grant.

14. Admittedly, in terms of notification dated May 7, 2003 the fleet strength over the route has specified to be 70. So far as the said notification is concerned, the petitioners have not come up to challenge the same in the present writ petition.

15. In such circumstances, generally, there would not be any embargo for the State respondent to fill up all the 70 vacancies over the said route.

16. The only point categorically ventilated by the petitioners is with regard to inadequacy of the parking spaces for which the buses are said to have been parked on road, thereby causing difficulty for the general commuters and causing unnecessary congestion over the route. In this regard the order of the Hon'ble Division Bench dated September 12, 2024, may be noted where the Court has directed the respondent authorities to issue permits only after ensuring adequate parking spaces to be there.

17. Considering all, as above, this Court is of opinion that the representations as above, of the writ petitioners and the added party, should be duly considered and disposed of by the RTA Board, Kolkata, keeping in mind and duly complying with the direction of the Hon'ble Division Bench, in order dated September 12, 2024.

18. Hence, this writ petition is disposed of with the direction upon the respondent/RTA Board, Kolkata to duly consider the representations dated January 22, 2024 and November 6, 2024, the petitioner and the added party respectively and pass a reasoned order after granting them adequate opportunity of hearing as well as taking into consideration the order passed by the Hon'ble Division Bench in WPA (P)/392/2024 dated September 12, 2024. Till then let the said respondent not to proceed with the formalities of issuance of any permit over the said route.

19. It is worth mentioning that in the event the said respondent finds the allegation of inadequacy of the parking space as made by the petitioners to be unsubstantiated, there shall not be any restraint for the said respondent to proceed duly and immediately, for grant of permit on the said route, in accordance with law.

20. Let the exercise as above be concluded by the RTA, Kolkata, within a period of three weeks from the date of communication of copy of this order.

21. The writ petition is disposed of.

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

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

**(Rai Chattopadhyay, J.)**