

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Rai Chattopadhyay

WPA 22358 of 2024

**Rabindranath Das
Vs.
The State of West Bengal & Ors.**

For the Petitioner : Mr. Allen Felix,

For the State : Mr. Amal Kr. Sen, Id. AGP
: Mr. Lal Mohan Basu

For respondent no. 7 : Mr. Dilip Kr. Samanta
: Mr. B. Samanta
: Mr. S. Palit

Heard on : 08/01/2025

Judgment on : 08/01/2025

Rai Chattopadhyay, J. :-

1. The Writ Petitioner challenges grant of permit to the respondent no. 7, by the respondent no. 2/Regional Transport Authority, Purba Bardhaman. In this Writ Petition he has prayed for the relief that his letter of protest submitted before the said respondent authority dated August 5, 2024 be directed to be considered by the said respondent, within a stipulated period of time.

2. The petitioner's contention in brief is that the respondent no. 2/Regional Transport Authority, Purba Bardhaman, has granted series of

permits to the respondent no. 7 who is not a local resident and has no local business address or garage address. Mr. Allen Felix, learned Advocate for the petitioner submits that by doing so, the respondents have not only jeopardized the business aspirations of the local incumbents but flouted the law and encouraged monopoly. He says that grant of permit as much as 6 of those, is, as if grant of State largesse to the respondent no. 7, though without following any rhyme or reason/rules/laws. He would say that the respondent no. 2 be mandated to immediately redress the grievance of the petitioner as ventilated in the letter dated August 05, 2024.

3. Mr. Allen Felix for the petitioner has also mentioned about the provisions contained in Section 70 of the Motor Vehicles Act, 1988 to submit that the legislature has mandated furnishing of information by the intending operator, regarding arrangements to be made for housing, maintenance and repair of vehicles for the comfort and convenience of passengers and for storage and safe custody of luggage. He would also refer to Section 72 (xix) to submit that grant of stage carriage permit should be subject to declaration of arrangements made available for the housing, maintenance and repair of vehicles.

4. The State is represented by Mr. Sen, learned AGP in this case. According to Mr. Sen, firstly, that after promulgation of Motor Vehicles Act, 1988, the upper limit of number of permits, as could be possessed by an

operator under the previous statute, has been over-ruled and now there is no limitation as to the number of permits which can be held by a single operator. In that view of the matter, Mr. Sen says that possessing six permits by the respondent no. 7 is not in contravention of any law, whatsoever. Secondly, Mr. Sen has submitted by relying on the provision under Section 69 of the Motor Vehicles Act, 1988 that the Regional Transport Authority is empowered to grant permit to an intending operator on the basis of the maximum length of the route to be covered by him, if falls within its jurisdiction. According to Mr. Sen, there is no further precondition accepting as enumerated under the statute as mentioned above, for consideration of the said respondent before grant of permission. He would say that the grounds pleaded by the petitioner in this case is only misconceived and baseless insofar as, as per law, an intending operator need not have to compulsorily have either the place of residence or the place of business or garage within the jurisdiction of the Regional Transport Authority to whom it has made application for grant of permit. He insists that the Writ Petition be dismissed.

5. Mr. Samanta who has represented the respondent no. 7, would largely relied on whatever is submitted on behalf of the State. He would say further that so far as the respondent no. 7 is concerned, by holding six permits within the jurisdiction of RTA, Purba Bardhaman, he has done no wrong in the eye of law.

6. Heard submissions, perused the record.

7. It appears that the points for consideration by this Court in the present case is whether the respondent no. 7 would be eligible under law to possess and hold simultaneously, six permits or that the respondent no. 2/RTA, Purba Bardhaman is entitled to issue that number of permits to respondent no. 7 alone and if grant of such permit to him has been illegal in view of the general provisions for grant of permit, as per the statute.

8. To determine the questions involved in this case as above, it is necessary that provisions under Section 69 (1) and proviso thereunder may be quoted as herein below:-

“(1) Every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles:

Provided that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles.”

9. Therefore, it is noted that an application for permit is to be made to the Regional Transport Authority of the region in which the vehicle is proposed to be used.

10. It is also mentioned in the said statute that for a route laying over two or more regions within a State, an application should be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies.

11. It has also been provided that in case the respective portions of the proposed route or area in each of the region through which it spreads, is approximately equal, then the application is to be made to the Regional Transport Authority of the region in which the intending operator proposes to keep the vehicle or vehicles.

12. Therefore, the Court is constrained to find that so far as the general provisions made for applications of permit in the said Act of 1988, no criteria has been enumerated therein, regarding existence of permanent residence and/or place of business and/or garage of the operator, within the jurisdiction of the Regional Transport Authority before whom he intends to make his application for permit. Instead the criteria is that, the applicant shall make an application before such authority within whose jurisdiction maximum portion of the route proposed by him lies.

13. The Court notices that according to the law, the garage should situate within the jurisdiction of the Regional Transport Authority to which the application has been made, in the only case where the portion of the route lying within jurisdiction of that Regional Transport Authority is equal to the other portion of the route which lies within jurisdiction of some other Regional Transport Authority. However, that is not the case of the respondent no. 7. The respondent no. 7 has been granted permits to operate within the jurisdiction of the Regional Transport Authority, Purba Bardhaman/respondent no. 2 and, therefore, the RTA, Purba Bardhaman shall be the appropriate authority before whom the said respondent could have filed his applications and be granted permit.

14. Therefore, challenge as to the jurisdiction and power of RTA, Purba Bardhaman to grant permit to the petitioner, by the present petitioner is found to be not maintainable.

15. The other question comes as regards grant of as many as six permits in favour of the respondent no. 7 by the respondent no. 2. According to the petitioner that amounts to centralization of the business opportunities available in the district and monopoly for the respondent no. 7. However, as per the statutory provision under the Motor Vehicles Act, 1988, there would not be any limitation as to the maximum number of permits an operator can hold. Similar provision in the previous Act, has

been repealed and done away with the promulgation of the Act of 1988. Therefore, the writ petitioner cannot raise an objection or dispute as regards grant of permits to the other person, unless and until he is able to show with sufficient corroborating and cogent material that grant of permit to the respondent no. 7 has been done illegally, and the same has jeopardized his legal rights.

16. The provisions under Section 70 or 72 of the 1988 Act, as relied on by Mr. Allen Felix for the petitioner would not however provide the housing of the vehicle to be mandatorily within the jurisdiction of the Regional Transport Authority who issues the permit. The statute, though having provided for due declaration as to how the vehicle shall be maintained and stationed, has not mandated the same to be stationed within the jurisdiction of the Authority who issues the permit.

17. As discussed above, the illegality pointed out as regards the process of grant of permit to the respondent no. 7 is only baseless and misconceived. The Court considers that there should not be any cogent or sufficient reason to interfere into grant of permit to the respondent no. 7 by the respondent no. 2.

18. Since no affidavit has been called for, the allegations made in the Writ Petition is deemed to have been denied by the respondents.

19. On the premise as above, the Court finds no merit in the Writ Petition. Hence, the same is dismissed.

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

(Rai Chattopadhyay, J.)