

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

Present:

The Hon'ble Justice Rai Chattopadhyay

WPA 24389 of 2024

Asit Ghosh

VS

The State of West Bengal & ors.

For the Petitioner : Mr. Bhaskar Nandi.

For the State : Mr. Pantu Deb Roy, Ld. AGP.,
: Mr. Pannalal Bandopadhyay.

For the respondent No. 5 : Mr. Timir Baran Saha.

Heard on : 06/01/2025

Judgment on : 06/01/2025

Rai Chattopadhyay, J. :-

1. The petitioner's grievance is two-fold. Firstly, that the respondent no.2/Regional Transport Authority, Nadia has withdrawn the provisional time table granted to him un-authorizedly and illegally and has issued a further time table which is not commensurate to the proposal of the petitioner and prejudicial to his interests.
2. Secondly, the petitioner has stated that alongside the respondent no.2 has been granted a time table to the private respondent which is in a curtailed manner thereby allowing indirectly

curtailment of the permitted route, without following the due procedure under law.

- 3.** Hence, the writ petitioner has challenged the alleged change in time table granted to him as well as grant of curtailed time table to the private respondent, in this writ petition.
- 4.** The petitioner holds a permanent State Carriage Permit being P.S.T.P no.1874 of 2020 as against the vehicle bearing no. WB 19/G/6094. The time table being the condition of the permit has been issued to the petitioner initially on February 10, 2024 on provisional basis.
- 5.** In the earlier round of litigation between the parties the Court, vide order dated June 7, 2022 in FMA 463 of 2022 has directed the Regional Transport Authority, Nadia to decide about a clash free time table and also for finalizing the clash free time table granted by it.
- 6.** Hence, the time table dated February 10, 2024 was provisionally approved for the petitioner on the basis of which the petitioner has been plying his vehicle. The petitioner has also made prayer before the competent authority to extend the validity of the provisional time table as above till the validity period of the permit subsists, by dint of his application dated February 15, 2024.
- 7.** Allegedly, subsequently on February 24, 2024, the petitioner has been granted a different time table than what he has been following as the provisional time table granted by the competent authority, to him, to ply his vehicle. The petitioner is aggrieved that before the change of the time table, the authorities have not allowed him an opportunity of hearing and thus has not been able

to provide him a clash free time table. The petitioner is further aggrieved due to issuance of the alternative time table as impugned. The respondent/authorities have flouted the principles of natural justice in his case and also caused serious inconvenience in smooth plying of vehicle by him, he states.

- 8.** On the other hand on the same date i.e. February 24, 2024 the private respondent has been granted a time table which is mostly similar with the time table granted to the petitioner earlier, but in a curtailed manner, thereby the down trip the route of the private respondent ends at Debogram only, instead of Karimpur. That, according to the said time table granted to the private respondent he would not be required to travel to the stops namely “Bethuadowri” and “Krishnanagar”, in the alignment of the permitted route.
- 9.** The petitioner has alleged that after grant of such altered time table to him by the said respondent/authority, several representations have been made by him seeking redress but to no avail whatsoever.
- 10.** Mr. Nandi, learned advocate appearing for the petitioner would submit that unilateral and abrupt change of time table by the respondent authority in the case of the writ petitioner would be unreasonable and an arbitrary exercise of power by it, resulting into gross injustice for the petitioner. He would say that the petitioner has never received any notice of hearing before the change of such time table and he challenges specifically, the signature of the petitioner to be true, as appears in the notice issued by the Secretary, Regional Transport Authority, Nadia dated February 21, 2024.

- 11.** Mr. Nandi would also say that the respondent/authority though has tried to showcase its bona fide by serving notice upon the President/Secretary, Nadia District Bus Owner Association and the Secretary of Palasipara Bus Malik Samiti, that the associations would not be eligible juridical persons as per law, to defend the cause of its members. In support of his contention he has referred to a judgement of this Court reported in **1993 (2) CLJ 99 (Siliguri Inter district Minibus Owners' vs. Sri Bijon Krishna Bhowmick)**. He submits that the Court has held there that an association, being a society registered under the Societies Registration Act, is a separate and distinct legal entity, apart from his members. He says that the Court in the said judgement has upheld that Motor Vehicles Act, 1988 has not provided any right upon the association of operators for raising objection or to be heard before the Regional Transport Authority, who can take a decision for its individual member in any matter of concern, before the said authority. Therefore, he would say that addressing any notice to the Bus Owners Association is only futile and farce, in view of the law settled as to the rights of the association under the Motor Vehicles Act, 1988.
- 12.** Lastly, he would submit that by allowing a time table to the private respondent thereby allowing him to ply through the route in a curtailed manner, the respondent authority has actually curtailed the route under the permit, though without following the due procedure under the law. Thus, grant of time table to the private respondent in a curtailed manner by the said authority would be illegal in the eye of law.
- 13.** Mr. Nandi seeks that the present writ petition be allowed by directing the respondent no.2 to immediately restore the previous time table in favour of the writ petitioner.

14. Mr. Deb Roy, learned AGP appears for the State and has raised strong objection as to the contentions and prayers of the writ petitioner. He says that the time table is to be granted by the respondent authority by exercising the discretionary power of it and after taking into consideration all the attending relevant facts and circumstances. He would submit that the petitioner would not have any vested right to any particular time table and would not be eligible under the law to plead violation of any of its rights so long as he has been provided with a time table by the concerned respondent/authority. Therefore, according to Mr. Deb Roy the present case is only unfounded and may be dismissed.

15. Mr. Saha is appearing for the respondent no.5/private respondent. He would say that the petitioner would not be entitled to raise objection as to grant of time table to his client, being an existing operator on the route. He would say that the petitioner should satisfy the Court, in accordance with the merits of his own case. So far as the petitioner is concerned, accordingly it is stated that the time table has already been granted to the petitioner and he would not have any justifiable reason to challenge such grant before this Court. Mr. Saha would seek that the writ petition be dismissed.

16. Heard submissions. Perused the record. It appears that in terms of the Court's order the respondent no.2 has granted the petitioner a time table though on provisional basis, on February 10, 2024. Pursuant to the same the down trip of the petitioner was about to start from Karimpiur at 8:36 am. The petitioner says that without any notice to him such time table has been abruptly altered by the said authority vide a subsequent time table granted to him dated February 24, 2024. According to the said second time

table the petitioner was to initiate his down trip from Karimpur at 8:49 am.

- 17.** The State respondents have stated in their report that before change of time table, all concerned were served with a notice to attend the hearing in this regard. According to the said respondent, the notice was served upon the petitioner also. However, the petitioner disputes receipt of the notice by raising question as to the truthfulness and genuinity of the signature of him endorsed over there. Facts remain that the petitioner did not attend for such hearing before the respondent/authority.
- 18.** The court further notices that the provisional time table earlier granted to the petitioner on February 10, 2024 has been later on transmitted to the respondent no.5 though in a curtailed manner. Instead, the time table as has been provided earlier to the respondent No.5 was transmitted to the present petitioner.
- 19.** The gross effect of this transposition of time tables has been that while earlier the petitioner's vehicle was starting from the terminal point at the down trip as the first vehicle, pursuant to the subsequent time table the vehicle of the respondent no.5 would be in the first place instead of the petitioner's.
- 20.** Furthermore, from the materials on record as well as the case made out by the respondent/authority the Court finds no reason to justify the action of the respondent/authority in providing time table to the respondent no.5 in a curtailed manner. The permit is granted to the concerned person for a specified route alignment and the time table which is the condition of the permit, should satisfy plying of vehicle through the entire alignment of the route so permitted to the person. There is gross violation as to the

same, so far as time table granted to the respondent no.5 dated February 24, 2024 is concerned.

- 21.** In consideration of the entire materials as above this Court is of the opinion that the respondent no.2/ RTA, Nadia should go into the questions of granting clash free time table to the concerned persons i.e. the petitioner and the respondent no.5 to allow them to ply their vehicle on the permit route smoothly. Let the said respondent take into consideration the fact that the petitioner has not been able to attend the hearing before it, before the time table of him was altered and also the fact that a partial or curtailed time table cannot be granted to any permit holder thereby allowing him not to ply through the permitted route alignment.
- 22.** Let the said respondent no.2 consider afresh regarding grant of clash free time table to the concerned respective parties, after allowing the petitioner and the respondent no.5 adequate and reasonable opportunity of hearing and by dint of a reasoned order. Let the respondent no.2 also take into consideration the decision of this Court as enumerated in ***Bijan Krishna Bhowmick's case*** (supra).
- 23.** Respondent no.2 shall conclude the entire process as above within a period of six weeks from the date of communication of copy of this order and inform to the parties its order, within one week from its date.
- 24.** Since no affidavits have been called for, the allegation made in the writ petition are deemed to have been denied by the respondent.

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

(Rai Chattopadhyay, J.)

I.B (P.A)