

03.01.2025.
PB
Sl. No.8.
Ct. No.25.

WPA 29994 of 2024

Joydev Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Sankar Nath Mukherjee,
Mr. Sk. Samim Akhter.
... For the Petitioner.

Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas.
.....for the State.

1. The affidavit of service filed in Court today is taken on record.
2. The writ petitioner has challenged the order of the RTO & Ex-Officio Assistant Director, STA, West Bengal, dated September 12, 2024, thereby rejecting grant of permit to him.
3. Mr. Mukherjee, learned advocate for the writ petitioner has placed the factual background of the case that pursuant to the application made by the writ petitioner for grant of Inter-Regional Stage Carriage Permit, from Balurghat Bus Stand to Nabadwip Bus Stand, the STA, West Bengal has approved his prayer by dint of the Board's Resolution dated October 9, 2023. The relevant portion thereof may be quoted as hereinbelow:-

“Approved subject to compliance of Notification No.2085-WT dated 02.06.2023 (Guidelines for permits of vehicles in terms of pollution norms) and 3438-WT dated 02.08.2004 (Restriction for issue of new permit and formulation of new route).

Applicant shall apply within 30 days from the date of uploading of STA Board decision and in accordance with Rule 141 of WBMVR, 1989 else permit application will be rejected”.

4. It is stated that since thereafter in spite of offer letter being granted to the petitioner along with the route time chart details and the petitioner having placed his vehicle with BS-III compliance being No.WB-61A-3007, along with the prescribed fees, grant of permit to him, has been delayed and finally rejected, by dint of the impugned letter as stated above.
5. According to Mr. Mukherjee, such action of denial for grant of permit to the petitioner, is arbitrary and illegal and should be set aside.
6. Mr. Deb Roy, learned advocate representing the State in this case.
7. In the present case, the issue is relating to due compliance of Notification No.2085-WT dated June 2, 2023. The same has provided as follows:-

“If the residential/business address of the owner is outside Kolkata Metropolitan Area (KMA), no vehicle lesser than BS-III compliant emission norms vehicle shall be allowed”.

8. Hence, so far as area, other than Kolkata Metropolitan Area, a BS-III compliant vehicle has been approved to be eligible to run on the said route.
9. Hence, the question remains if the respondent is justified in declining the petitioners prayer for grant of permit, due to non-production of a BS-IV vehicle or not.
10. This Court had opportunity previously to deal with the similar question in writ petition being WPO 392 of 2024, vide judgment dated July 2, 2024.
11. It has been found that the notification dated June 2, 2023, as above contains words “may and “preferably” to qualify the words “minimum BS-IV emission norms”. Thus, the usage of “may” and preferably” to qualify the nature of vehicle indicates about its characteristic as an optional measure.
12. The Court held in the said case that BS-IV complied vehicle may be preferable but cannot be made absolutely incumbent. The Court therein has decided to direct grant of permit to the petitioner there.
13. Hence, in view of the ratio decided in the said judgment which has reached its finality as well as the clause in the notification as quoted above, the Court is of the considered opinion that there would not be any reasonable or legal foundation of the decision of the RTO & Ex-Officio, Assistant

Director, STA, West Bengal in its letter dated September 12, 2024. Being bereft of the due compliance with the legal provisions, the same is illegal and thus, liable to be set aside.

14. On the discussions as above, the Court decides to pass the following decision:-

- i) The impugned order dated September 12, 2024, by the Regional Transport Authority, is set aside.
- ii) The respondent no.4 is directed to issue permit to the writ petitioner as against the Vehicle No.WB-61A-3007, subject to his fulfilling with the other statutory formalities.
- iii) The entire exercise as above, should be completed within a period of three weeks from the date of communication of copy of this order.

The writ petition is allowed.

Since no affidavit has been called for, allegations made in the writ petition, shall be deemed to have not admitted by the respondents.

Urgent certified photocopy of this order, if applied for, shall be supplied to the parties, on compliance of all necessary formalities.

(Rai Chattopadhyay, J.)