

IN THE HIGH COURT AT CALCUTTA
Constitution Writ Jurisdiction
ORIGINAL SIDE

WPO/146/2025

SHYAMALI RANI BERA
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE RAI CHATTOPADHYAY

Date : 4th March, 2025.

Appearance:

Mr. Shankar Nath Mukherjee, Adv.

Sk. Samim Akhtar, Adv.

..for the petitioner.

Mr. Amal Kr. Sen, Adv.(A.G.P.)

Ms. S. Sumi, Adv.

...for the State

The Court:- The petitioner is aggrieved due to the alleged inaction of the STA, West Bengal in considering his prayer for issuance of permit on the inter-regional route from Patna (Paschim Medinipur) to Masaria (Purba Medinipur), the alignment of which traverse through the other State Odisha, Chandaneswar for 7 km.

Learned advocate for the petitioner has submitted that in terms of the notification of 2013, there are modalities fixed regarding submission of on-line application. He says that in terms of the same, the application of the petitioner for issuance of permit over the said route, not being in conformity with the said modalities, has not been accepted in the department's website. He says that thus the petitioner was forced to submit her written representation as well as the manual form of application filled up in statutory Form-I dated August 21, 2024 before the said authorities. Allegedly, no decision has yet been taken by the respondent STA, West Bengal as regards the petitioner's application for

grant of permit on the said route, as has been submitted by him by dint of Form-I dated August 21, 2024.

Mr. Mukherjee learned counsel representing for petitioner has relied on statutory provisions under Section 69(2) of the Motor Vehicles Act, 1988 in this regard, to submit that the State Government in exercise of its power under the said provision of law, has already issued notification on November 6, 1995, directing that in case of any vehicle proposed to be used in two or more regions lying in different States, an application shall be made to the State Transport Authority of the region in which the applicant resides or has his principal place of business. He says that the petitioner is covered under the said notification and eligible to submit his application for issuance of permit before STA, West Bengal.

Thus, Mr. Mukherjee has submitted that the State Transport Authority, West Bengal is the appropriate authority for receiving the application of the petitioner for issuance of permit for the said route and consideration of the same in accordance with law.

Mr. Sen, learned AGP has represented the State. So far as the petitioner's contention regarding consideration of his representation along with the application in statutory Form-I dated August 21, 2024 is concerned, Mr. Sen has agreed that the same may be considered and decided upon by the respondent STA, West Bengal. However, he has mentioned that the notification dated November 06, 1995 published under Section 69(2) of the Motor Vehicles Act, 1988, has subsequently been superseded by the 2013 notification. He says that the notification of 2013 which has provided that permit of a route covering

three or more regions and when a portion thereof, to the extent of 16 kms, traverses through the contiguous State keeping the regional termini points intact, is to be considered by the STA, of the State where the originating and terminating points are situated. So far as the route proposed by the present petitioner is concerned, according to Mr. Sen, the same having not complied with the provisions of notification of 2013, cannot be considered by the STA, West Bengal, as prayed for by the petitioner. Therefore, Mr. Sen has raised a point of jurisdiction and insists that at the time of consideration, the same may also be deliberated upon and decided by the authorities, at the same time.

Heard submissions and perused the record. This is not disputed that in 2013, a notification has been issued superseding the earlier notification dated November 6, 1995, which the petitioner has relied on, in this case. Therefore, it is a question for consideration at this moment whether in terms of the notification of 2013 and in consideration of the petitioner's proposed route, the STA, West Bengal shall have the jurisdiction to entertain the petitioner's application for issuance of permit and decide thereupon or not. As a matter of fact, as indicated by Mr. Mukherjee, from the documents annexed with this writ petition, the Court finds that similar other application has been already entertained and allowed by the STA, West Bengal, for a route wherein the originating and terminating point pertain to the two different regions in one State whereas the alignment of the route touches through a point situated in the contiguous State.

Obviously, the State instrumentalities cannot exercise discriminatory policies, treating dissimilarly the similarly circumstanced persons.

Therefore, let the Board STA, West Bengal decide about the representation and application of the petitioner for issuance of permit, as applied for by her in the statutory Form-I dated August 21, 2024, in accordance with law. The said respondent shall grant opportunity of hearing to the petitioner and dispose of her said representation, with the enclosure thereof, within a period of six weeks from the date of communication of copy of this order and by dint of a reasoned order, if not the prayer of the petitioner is allowed by the said respondent, immediately. In that case, the order of the authority shall be communicated to the petitioner within one week thereafter.

It is further directed that the order of the Board, if any, should contain its decision regarding the jurisdictional issue too, as is relevant and involved in this case.

With the direction as above, the present writ petition is disposed of.

Since no affidavit in opposition has been called for, the allegations made in the writ petition are deemed to have been denied by the respondent.

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

(RAI CHATTOPADHYAY, J.)