

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/158/2025
WITH
WPO/64/2025
IA NO: GA/1/2025

DEBARGHYA DHARMOHAPATRA
-VS-
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE MADHURESH PRASAD

And

The Hon'ble JUSTICE SUPRATIM BHATTACHARYA

Date: June 19, 2025.

Mr. Sankar Nath Mukherjee, Adv.; Mr. Sk. Samim Akhter, Adv.; Ms.
Manisha Paswan, Adv., for appellant.
Mr. Naba Kr. Das, Adv.; Ms. Rajyashree Mukherjee, Adv., for State.
Mr. Bhaskar Nandi, Adv., for respondent no.5.

1. The petitioner/ appellant has approached the writ Court seeking quashing of the resolution of the State Transport Authority Board, West Bengal (hereinafter referred to as "the Board") dated 12.12.2024. He is aggrieved by the resolution in respect of Agenda 23 and 64 thereof. By resolution in respect of Agenda No. 23 the petitioner's application for inter state stage carriage permit for the route Kolkata at KCBT Santragachi to Nrusinghanath via Jamsola, Keonjhar, Deogarh, Sambalpur having route code No. 2523 has been rejected.
2. The application of one Nitai Kumar Barik, respondent No. 5 herein, for the route-in-question has been allowed.

3. The learned Counsel for the appellant submits that rejection of the petitioner's claim on the ground that there was no vacancy is unsustainable. There was a vacancy and based on such vacancy the permit has been issued to the respondent No. 5 whereas the petitioner's claim has not been considered. He thus approached the writ Court alleging discrimination. It is submitted that rejection of the petitioner's claim was arbitrary and unsustainable. The Board was required to treat the two applications made by the petitioner as well as the private respondent equally and to consider both, which has not been done. The order, therefore, rejecting the petitioner's claim, as well as allowing the claim of respondent No. 5 stands vitiated as being product of an illegal exercise giving rise to discriminatory and arbitrary treatment to the petitioner. The writ Court rejected the petitioner's claim and dismissed the writ petition by its order dated 20th May, 2025.
4. The petitioner is before this Court assailing the order passed by the writ Court by way of this intra Court appeal. We have considered the averments made in the appeal as well as submission of the learned Counsel for the petitioner.
5. We find that the respondent No. 5 made an application for grant of permit for the route-in-question in the year 2022 itself which had been approved in his favour. The approval, however, could not culminate into issuance of permit because the respondent No. 5 did not replace the vehicle which he was required to do. The approval thus stood cancelled automatically on the Vahan portal due to lapse of

requisite time. As a result one vacancy occurred for the said route. This vacancy, however, was not notified, which fact is not in dispute. In the circumstances the respondent No. 5 submitted application afresh and moved the writ Court by filing a writ petition seeking consideration of his application.

6. W.P.A. No. 24323 of 2024, filed by the respondent No. 5 was disposed of in the following terms:

“Having heard the learned advocates and perusing the records, it is found prudent to dispose of the writ petition by directing the respondent State Transport Authority/Respondent no.2 to consider the petitioner’s application (online) dated 13th August, 2024, within a period of eight weeks from the date of communication of this order.”

7. For compliance of the order passed by the High Court in favour of the respondent No. 5, the respondent No. 5 approached the Board, which in compliance of the direction of the Hon’ble Court in W.P.A. No. 24323 of 2024 considered his claim and allowed the same, against the vacancy which had earlier been approved in favour of the petitioners and had automatically lapsed as noted above.
8. There being no other vacancy notified there was no occasion for the respondents to consider, let alone grant permit to the present petitioner in respect of the same route. The petitioner’s claim thus was rejected for want of vacancy by the decision in respect of agenda No. 23 in the meeting dated 12.12.2024 of the Board.

9. The present petitioner's application was not in response to any notified vacancy and as such was rejected. The application has thus been rejected on the ground that there was no vacancy which is apparent from bare reading of the resolution for agenda No. 23 on 12.12.2024.
10. Insofar as the respondent No. 5 is concerned his application has been accepted taking into consideration the fact that the route had already been approved in his favour pursuant to his application dated 09.12.2022. The petitioner thereafter could not avail the benefit of such approval, and approached the High Court and the High Court in W.P.A. No. 24323 of 2024 directed consideration of his case. The grant in favour of respondent No. 5 is in the above noted facts and circumstances and for ensuring compliance with direction passed in his writ proceedings. The petitioner is claiming discrimination on the ground that his claim has not been considered for grant of permit against the vacancy, and ignoring his claim, the claim of respondent No. 5 was considered and allowed.
11. As taken note of above, consideration of respondent No. 5 was in compliance of direction passed by the writ Court in W.P.A. No. 24323 of 2024 filed by the respondent No. 5. The order was passed in the writ proceedings since the route permit in question had already been granted to respondent No. 5 but lapsed automatically subsequently because he could not fulfil some condition for availing benefit of the permit granted to him. It was under this circumstance

that the High Court directed consideration of the claim against that vacancy arising in the above circumstance. The writ petitioner, however, has chosen not to assail the order passed in W.P.A. No. 24323 of 2024. It, therefore, does not lie in the mouth of the present writ petitioner to contend that consideration of the claim of respondent No. 5 and grant of permit as a result of such consideration in compliance of the order passed in W.P.A. No. 24323 of 2024 is in any way discriminatory or arbitrary. The plea of there being any discrimination meted out against the petitioner/ appellant; or that the decision is arbitrary is clearly unsustainable.

12. We find no infirmity in the decision of the Hon'ble Single Judge. The present appeal is thus found to be devoid of any substance and is hereby dismissed.

(MADHURESH PRASAD, J.)

(SUPRATIM BHATTACHARYA, J.)