

26.02.2026

Ct. no.10

Sl. No.19

b.r.

WPA 1575 of 2026

Sujauddin Molla & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Shibaji Kumar Das

Mr. Dipendu Sarkar

.... For the petitioners

Mr. Pantu Deb Roy, Ld. AGP

Mr. Subrata Guha Biswas

..... for the State.

1. Affidavit of service filed in Court, is taken on record.
2. Deficit Court fees has been paid. Proof of such deficit court fees, filed in Court today is taken on record.
3. The petitioners are the intending operators for route originating from route no. 314- Zinzira Bazar Auto stand to Bener Dokan via Sarkar Pool, Mohan Doctor Chamber.
4. It is submitted that in the said route, the population is more than one lakh and there exists only 13 licensed auto rickshaws to ply in the said route, which are unable to cater the needs of the public at large. It is submitted that the total distance of the route in question as per Google map is 5.7 km. The distance between Sarkar Pool more to Zinzira Bazar Auto stand is 0.7 km and the

sake strip of road is the only bus road through which the Bus no.77A passes on its way from Birlapur to Dharmatala. At present there is no existing bus route, Toto & Mini Bus in between Zinzira Bazar auto stand to Bener Dokan via Sarkar Pool, Mohan Doctor Chamber for the entire remaining stretch of 5 km.

5. The petitioner in the instant case submitted an application electronically for grant of new permit in terms of the letter bearing Memo no. 596 14MV dated 19th June, 2025. It is submitted that the applications for grant of contract have been refused by the respondent authorities. In view of the arbitrary action of the respondent the petitioner approached this Court by filing writ petition being WPA 7347 of 2025. By an order dated 7.5.2025 passed by the coordinate bench of this Court the writ petition has been disposed of directing inter alia, to accept the application along with requisite fees for issuance of permit.

6. In pursuance of the order dated 7th May, 2025 passed by the Co-ordinate Bench of this Court in WPA 7347 of 2025 along with other writ petitions, notices have been served upon and a decision has been taken accordingly by the authority concerned on 25.11.2025 bearing Memo

No. 1836 (14MV) rejecting the application in limine on the ground of congestion of the said route by relying upon Clause no.6 of Order 268-WT/3M-01/2010 Pt-1 dated 20.01.2010 of Transport Department for the safety and security of the daily commuters which is the subject matter of challenge in the instant writ petition.

7. Learned counsel for the petitioners relies upon a judgement passed by Hon'ble Justice Dipankar Dutta, as His Lordship then was, **reported in 2014 SCC online Cal. 7260**, wherein it has been observed in Paragraphs- 50 and 51, which are reproduced below:-

“ 50. Insofar as the petitioners represented by Mr. Sarkar are concerned, they had all applied for intra-regional permits for operating auto rickshaws before the RTA, Nadia. All such applications have been rejected on diverse dates, but with identical resolutions. The identical resolution of the RTA, Nadia adopted while rejecting the applications reads as follows:-

“ Heard the applicant. After taken into consideration the road condition, congestion of road traffic and safety and security of the passengers travelling in such 3-wheeled Auto-Rickshaw within the ambit and scope of the Motor Vehicles Act and rules framed thereunder, his application is not granted.

51. I have no doubt in my mind that rejection of the petitioners' applications for permits by the RTA, Nadia is arbitrary and that the impugned

resolutions are indefensible. Guideline (6) does not restrict grant of permit to operate an auto-rickshaw. What it says is that while granting an auto-rickshaw permit, the permit issuing authority is to consider the road condition, congestion of road traffic, and safety and security of the passengers within the ambit and scope of the MV Act and the rules framed thereunder. There is no discussion in the impugned resolutions with regard to the factors mentioned in guideline (6). While dealing with the applications for permits of each of the petitioners, it was imperative for the RTA, Nadia to indicate with some degree of clarity the impediments standing in the way of grant of permits. The RTA, Nadia could not have simply referred to the factors mentioned in guideline (6) and without anything more, reject an application for permit. Application of mind was necessary, which is conspicuously absent. The impugned resolutions of the RTA, Nadia thus stand set aside.”

8. The State-respondents submits that due to serious congestion in the area in question, a new permit cannot be granted by the concerned authority. Moreover, it has to be ascertained whether the fleet strength of the auto rickshaws on the route in question has been notified by the department or not.

9. Having heard the parties and upon perusal of the materials on record, I am of the concerned view that the issue involved herein pertains to the

grant of new permits of auto rickshaws on the route no. 314 originating from Zinzira Bazar Auto stand to Bener Dokan via Sarkar Pool, Mohan Doctor Chamber. Keeping in mind the population as reflected from the records, only 13 licenced Auto rickshaws are plying on the route to cater to the needs of commuters in this densely populated area.

10. The decision taken by the respondent no.4 is not tenable in the eye of law as the same suffers from gross legal infirmity. A further introspection by the authority concerned is required to arrive at a logical and reasoned conclusion. The issue of the public convenience and the demand cannot be ruled out merely by rejecting the application for the grant of a new permit.

11. In view of the above, the decision taken by the respondent no.4 is hereby quashed and set aside. I direct the respondent no.2 to revisit the issue by considering the practical aspect of the demand of the public at large. The decision shall be taken within a period of 8 weeks peremptorily by passing a reasoned order upon affording an opportunity of hearing to the petitioners and the other stake holders and communicate such decision within a week thereafter.

12. However it is made clear that at the time of reviewing the issue involved herein, the concerned authority shall ascertain the fleet strength of the auto rickshaw has at all been notified or not. If it has not been so notified, then in the absence of such notified fleet strength the authority shall adopt a pragmatic view to effectively strike a balance by bridging the gap between public demand and the infrastructural facility.

13. With the above observations and directions, the writ petition, **WPA 1575 of 2026** stands ***disposed of*** without going into the merits of the case.

14. Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Smita Das De, J.)