

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
(APPELLATE SIDE)**

Present:
The Hon'ble Justice Smita Das De

W.P.A. No. 27700 of 2025

**Sri Rahul Chanda
Vs.
The State of West Bengal & Ors.
With
WPA 25203 of 2025
CAN 1 of 2025
Shobha Singh
Vs.
The State of West Bengal & Ors.**

For the Petitioner (WPA 27700 of 2025).... For the Respondent (WPA 25203 of 2025).	: Mr. Debabrata Saha Roy, Sr. Adv : Mr. Pingal Bhattacharyya : Mr. Subhankar Das : Mr. Neil Basu : Mr. Sankha Biswas : Ms. Oindrilla Sarkar : Mr. Avidipta Paul
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For the State in both the writ petitions	: Mr. Pantu Deb Roy, Ld. AGP, : Mr. Pannalal Bandopadhyay
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For the Intervener	: Mr. Soumen Bhattacharjee : Mr. Ankan Das : Ms. Sradhya Ghosh : Mr. Raunak Seal
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For the Petitioner (WPA 25203 of 2025)	: Mr. N.I. Khan
For the Respondent(WPA 27700 of 2025)	: Mr. Amlan Kr. Mukherjee

Reserved on	: 06/01/2026
Judgment on	: 21/01/2026

Smita Das De, J.:-

1. Both the writ petitions are heard together and disposed of accordingly by a common order, as the issue pertains to plying of vehicles of the writ petitioners herein, in the route No. 71 running from Howrah to Saltlake.
2. For the sake of convenience and in order to effectively address the issue involved herein, the facts relevant for adjudication are being culled out and taken from WPA No. 27700 of 2025.
3. The petitioner in the instant case challenges inter alia, the resolution dated September 24, 2025 resolved under agenda no. 4, refusing to issue the order of replacement of the old vehicle and the renewal of the permit of the new vehicle in respect of the route no. 71 running from Howrah to Salt Lake hereinafter referred to as the said route.
4. Apropos the facts of the case, the petitioner is a permanent stage carriage permit holder of the said route being PSTP No. 029/71/NEW/2010.
5. Initially the said permit stood in the name of one Pradeep Singh. Subsequently, the same was transferred in the name of the petitioner with the prior consent of the erstwhile owner and the permit was accordingly renewed by extending the period of validity of the permit by the respondent authorities.
6. The petitioner took steps for replacement of the old vehicle with a new BS-III norms complained vehicle. The petitioner purchased a new vehicle on hire purchase by taking a loan from West Bengal Transport

Infrastructure Development Corporation Ltd. (hereinafter referred to as WBTIDCL for the sake of brevity and convenience).

- 7.** Thereafter, the petitioner produced the new vehicle before the authority concerned for the renewal of the permit and replacement of the old vehicle with the new vehicle since the validity period of the permit was about to expire on February 21, 2025.
- 8.** In the meantime one Shobha Singh (being the private respondent herein) filed a Writ Petition being WPA No. 4949w of 2018 before this court on March 26, 2018. A representation was made before the respondent authorities for grant of permanent stage carriage permit in respect of a vacancy created in the route No. 71 due to non-plying of the vehicle of a Bus No. WB04E-3525 (WBTIDCL Bus).
- 9.** In pursuance of an order dated September 3, 2018 passed by the Coordinate Bench of this Court in WPA 4949 of 2018 directing inter alia, the respondent No. 2 to consider the representation of the private respondent dated March 26, 2018 for ascertaining as to whether the writ petitioner herein has been plying the vehicle in the said route or not.
- 10.** The RTA Board, Kolkata took a resolution and rejected the prayer of the private respondent on November 15, 2018 on the ground of there being 'no vacancy' in the route No. 71.
- 11.** A further Writ Petition was filed before this Court by the private respondent challenging inter alia, the order of rejection passed by the RTA Board on April 9, 2019. Upon considering the same the Coordinate Bench of this Court further directed the respondent No. 2

to take a fresh decision on the issue as prayed for by the private respondent. Subsequently the RTA Board again rejected the prayer of the private respondent on the ground of **“no vacancy”** in the route No. 71.

- 12.** A further Writ Petition was filed by the private respondent in WPA No. 17233 of 2019 assailing the Resolution of RTA Board dated May 6, 2019 wherein the Coordinate Bench was pleased to set aside the said resolution directing inter alia, for fresh consideration in the light of the order already passed on April 9, 2019 in WPA 4578 of 2019.
- 13.** Subsequently the prayer of the private respondent was further rejected on October 10, 2023 on the self-same ground i.e. ‘no vacancy’ in route No. 71.
- 14.** In the meantime the private respondent initiated a Contempt Proceeding against the respondent No. 2 for non-compliance of the order dated March 31, 2023 passed in WPA 17233 of 2019 of this court.
- 15.** In pursuance of such Contempt Proceedings the RTA Board took a fresh resolution on November 9, 2023 by issuing an offer letter in favour of the private respondent for the route No. 71 by cancelling the permit of the petitioner.
- 16.** The resolution taken by the petitioner on October 10, 2023 by the RTA Board was communicated accordingly to the petitioner, which became the subject matter of challenge in WPA No. 28142 of 2023.

17. The matter was extensively heard by the Coordinate Bench of this Court and on September 3, 2025 the judgment was delivered with an observation which is reproduced below:

“Therefore, on the two scores that is the permit of the petitioner being cancelled in absence of compliance of any of the Clauses as enumerated in Section 86(1) of the 1988 Act and also in absence of the writ petitioner having been afforded any opportunity to furnish his explanation as regards proposed cancellation of his permit, the resolution adopted by the Board on October, 2023, appears to be not in compliance with the statutory provisions. At the cost of reiteration, this Court further notes that the impugned resolution has been adopted without ascertaining whether the 24th position of the fleet strength is actually vacant or not. The resolution dated October 10, 2023, therefore, would not be eligible to be sustained for the reasons as stated above. Hence, the said resolution dated October 10, 2023 by the respondent /Regional Transport Authority Board, Kolkata Region as regards cancellation of the permit of the writ petitioner vide resolution No 4 is set aside.”

18. Thereafter, the petitioner filed another Writ Petition being WPA No. 3921 of 2025 praying inter alia, for the replacement of the vehicle No. WB04E-3525 (WBTIDCL Bus) since the petitioner was restrained to ply on the said route after February 21, 2025. The Writ Petition was disposed of by an Order dated February 19, 2025 directing inter alia, the RTA Board to replace the vehicle and to allow the petitioner to ply the vehicle till the disposal of the Writ Petition No. 28142 of 2023. On February 27, 2025 the prayer for replacement was rejected by allowing the petitioner to ply his vehicle till the same attains the finality.
19. In view of the judgment and order dated September 3, 2025 passed by the Coordinate Bench of this Court the resolution dated October 10, 2023 taken by the respondent No. 2 with regard to the cancellation of the permit of the petitioner was quashed and set aside.
20. In this context the petitioner submitted by relying upon a decision in the case of **Chairman-cum-Managing Director, Coal India Ltd. And Others Versus Ananta Saha and Others** reported in (2011) 5 SCC

142 which states i.e. it is a settled legal proposition that if initial action is not in consonance with law, subsequent proceedings would not sanctify the same. In such a fact situation, the legal maxim *sublato fundamento cadit opus* is applicable, meaning thereby, in case a foundation is removed, the superstructure falls. In the present case vacancy, offer letter etc emanates out of an order of cancellation of a permit which was issued in favour of the writ petitioner by a resolution dated October 10, 2023 which has been quashed and/or set aside, therefore the filling up of alleged vacancy by issuing an offer letter in favour of the private respondent is misconceived and is not legally sustainable.

- 21.** It is submitted that in spite of specific orders of this court the respondent authorities refused to pass an order of replacement on the ground of locus of the petitioner.
- 22.** The petitioner submits that in respect of all the orders passed by the Coordinate Bench of this Court, orders have been obtained by the private respondent without impleading the petitioner to the array of the proceedings.
- 23.** The State respondent submits that already a resolution has been taken by the respondent No. 2 on February 27, 2025 and May 27, 2025 to obtain a NOC from WBTIDCL being the actual owner of the vehicle.
- 24.** The route in question is a notified route having a fleet strength of 40. If the private respondent is allowed to ply the vehicle then the position

of the private respondent would have been over and above 40 and would have attained the position of 41st.

- 25.** The private respondent submits that the petitioner has already surrendered the permit and never plied the vehicle in the route in question. Such contention of the private respondent was refuted by the petitioner stating inter alia, that the question of non-plying of the vehicle in the route in question does not arise since the documents annexed to the writ petition corroborates that the vehicle of the petitioner has already suffered immensely and has been penalized for violating the traffic rules prescribed under the Motor Vehicles Act, 1988 for the period 2017 to 2024.

Now taking up WPA 25203 of 2025 wherein the private respondent of WPA 27700 of 2025 is the petitioner herein challenging inter alia, the non-issuance of a stage carriage permit of the said route being route No. 71 in favour of the petitioner despite due compliance with all the terms and conditions of the offer letter including the purchase of the emission norms complained vehicle as required for.

- 1.** The petitioner submits that the said route is a notified route with a fleet strength of 40, the vehicle owned by one Rahul Chanda being the petitioner in WPA No. 27700 of 2025 being the private respondent herein, has been plying the vehicle in excess of the fleet strength of 40 by holding the 41st position in the said route.
- 2.** The petitioner submits that as per the resolution No. 4 dated October 10, 2023, the RTA Board was pleased to cancel the permit being No. 029/71/NEW/2005 owned by the private respondent by offering an

Offer Letter in favour of the petitioner against the alleged position of 24 in the said route.

3. The private respondent submits that in the light of the order passed by the Coordinate Bench of this Court the resolution dated October 10, 2023 is not legally sustainable as the same has lost its force, and is a nullity in the eye of law.
4. The State respondents fairly takes a stand and submits that since an offer letter has already been issued by the respondent authorities to the writ petitioner, the respondent authorities are willing to accommodate the petitioner to ply his vehicle against a vacancy available in a different route having a close proximity to the route No. 71. The petitioner refuses to accept such alternative route for plying his vehicle. The State respondents in this context of such refusal submits in all fairness that in near future if any vacancy is declared in respect of the said route the petitioner shall get a preference out of turn to apply for the said route in question.
5. Mr. Soumen Bhattacharya, Learned counsel appearing in CAN 1 of 2025 for the addition of parties submits that in the said route there is one vehicle plying over and above the fleet strength of 40. If the private respondent is allowed to ply then the petitioner shall hold the position of 42nd, which de hors the mandate of the notification.
6. After hearing the rival contentions of the parties in respect of both the Writ Petitions, I am of the considered view that the decision has been taken by the respondent authorities on October 10, 2023 without proper application of mind. The creation of vacancy against the 24th

position in the fleet strength is no longer in dispute as the private respondent is running the vehicle in the said route in full swing without any interruption. In view of the judgment and Order of the Coordinate bench of this Court, the resolution dated October 10, 2023 is a nullity in the eye of law and is not legally sustainable as it has lost its force since the order of the cancellation of a permit of the writ petitioner has been set aside and quashed.

- 7.** The respondent authority has misconstrued the letter and the spirit of the order and/or judgment dated September 3, 2025. The decision taken by the respondent by way of a resolution cancelling the permit of the writ petitioner reflects thereby the arbitrariness and the biasness of the respondent authorities frustrating the entire process of decision making.
- 8.** In the light of the observation made in WPA No. 27700 of 2025 the writ petition No. 25203 of 2025 is misconceived and cannot be entertained and is liable to be dismissed.
- 9.** In view of the above discussions the following directions are adumbrated hereunder:-
 - a) Rahul Chanda being the writ petitioner of WPA 27700 of 2025 is directed to make payment of all admissible dues to WBTIDCL within a period of 2 weeks from date.
 - b) The WBTIDCL is directed to issue NOC forthwith in favour of Rahul Chanda subject to the satisfaction of payment of the arrears which has fallen due.

- c) The copy of the NOC received from WBTIDCL shall be placed before the RTA, Kolkata being the respondent No. 2 herein within a week thereafter.
- d) The respondent No. 2 is directed to pass an order of replacement of old vehicle being WB04E-3525 of Rahul Chanda being the petitioner in terms of the order dated February 19, 2025 passed in WPA 3921 of 2025 within 2 weeks from the date of submission of NOC obtained from WBTIDC Ltd.
- e) However, it is made clear that since the rights of Shobha Singh the petitioner of WPA of 25203 of 2025 has been prejudiced due to a wrong decision taken by the respondent No. 2, the respondent No. 2 is directed to find an alternative route to allow Shobha Singh, to ply her vehicle in a close proximity to the route in question or else to accommodate her against any vacancy if declared in the said route by giving a preference to apply for the same. The said decision shall not act as precedence to the other intending / existing operators in the said route.
- f) The RTA Kolkata shall renew the permit of Rahul Chanda as per the application dated February 2, 2025 accordingly.
- g) The respondent authorities shall make a field enquiry to ascertain as to whether any vehicle is at all plying over and above the fleet strength of 40, in that case the respondent authorities shall forthwith take necessary steps in accordance with law against the vehicle owner holding the 41st position.

- h) In the event, if the respondent authorities concerned decides to increase the fleet strength over and above 40, the respondent authorities shall communicate such decision to Shobha Singh for allowing her to make an application for grant of permit to ply the vehicle in the said route.
- 10.** In conspectus of the above, the Shobha Singh has lost her locus to agitate the issue of filling up the vacancy against the 24th position in the said route.
- 11.** By setting aside and quashing the resolution dated October 10, 2023 vide Judgment/Order dated September 3, 2025, the locus of Rahul Chanda is resurrected and his position remains restored as 24th in the fleet strength of 40.
- 12.** The writ petition No. **WPA 27700 of 2025** is disposed of in terms of directions passed herein and **WPA No. 25203 of 2025** is dismissed accordingly in view of **WPA 27700 of 2025**. CAN 1 of 2025 for addition of parties is allowed and disposed of. No order as to cost.
- 13.** Urgent Photostat certified copy of this order if applied for, be supplied to the party on priority basis upon compliance upon requisite formalities.

(Smita Das De, J.)