

18.03.2026
ct no. 10
Sl. 01
AGM

WPA 30041 of 2024
IA CAN No. 2 of 2025
IA CAN No. 3 of 2025

Subrata Karmakar

-Versus-

State of West Bengal & Ors.

Mr. Debabrata Saha Roy. Sr. Adv.
Mr. Neil Basu.
Mr. Sankha Biswas.

...for the petitioner.

Mr. Amal Kumar Sen, Ld. A.A.G.
Mr. Pantu Deb Roy. Ld. A.G.P.
Mr. Parikshit Goswami.

...for the State.

Mr. Sankar Nath Mukherjee.
Mr. Niraj Gupta.

... for the private respondent.

1. The petitioner in the instant case challenges inter alia, the resolution of the RTA Board, Kolkata dated November 20, 2024 wherein the actual length of the modified route, criss crossing the Eastern Metropolitan By-pass covers a length of approximately 4 kms via Kadapara, Bench Chemical and Beliaghata.
2. It is further stated that the respondent authorities have committed a gross illegality by violating the provisions mentioned in the Notification No. 1010-WT/3M-154/2004 dated February 11, 2005 by granting permission to the private respondent for variation of the route.

3. The Notification dated February 11, 2005 categorically lays down the conditions which are enumerated below:

SCHEME

The Calcutta State Transport Corporation, the South Bengal State Transport Corporation, The North Bengal State Transport Corporation, the West Bengal Surface Transport Corporation Ltd and the Calcutta Tramways (1978) Co. Ltd being the State Transport Undertakings, for the purpose of providing an efficient adequate, economical and properly co-ordinated road transport service, operate and run in the public interest, passenger stage Carriage Service in relation to the area/route particulars whereof are specified in the schedule below to exclusion of all other passenger transport service except:

- (1) The existing permanent stage carriage permit holders as on the date of the publication of the approved scheme in the route/area specified in the schedule hereto or in any portion thereof.
- (2)
- (3)
- (4)
- (5)
- (6) State Carriage and Contract Carriage permit holders Criss crossing E.M.Bye Pass but not plying along Eastern Metropolitan By-pass for a distance of more than 500 Meters."

4. Learned counsel appearing for the private respondent raised a preliminary objection

regarding the maintainability of the petitioner's locus standi to challenge the route modification, since the petitioner is an existing operator cannot challenge the route of another existing operator where the State respondent has already granted permission.

5. It is stated by the private respondent that in Indian Administrative Law a petitioner must show direct legal injury or a substantial interest in the matter. Existing operator can challenge permits if they demonstrate adverse impact in their rights or operation.
6. The private respondent places reliance upon a judgment of the Hon'ble Apex court in the case of **Mithilesh Garg & Ors -vs- Union of India & Ors** reported in **(1992) 1 Supreme Court Cases 168** and **Abdul Hai Khan -vs- Subal Chandra Ghose and Others** reported in **(2002) 4 Supreme Court Cases 519** as to whether an existing operator can challenge permits solely to prevent competition, the focus must be on whether they have a right to demand a monopoly. Promoting efficiency, public interest and reduced corruption takes precedence over an existing operators desire to maintain a monopoly.
7. In **Abdul Hai Khan -vs- Subal Chandra Ghose and Others** reported in **(2002) 4 Supreme Court**

Cases 519, the private respondent relies upon paragraph 11 of this judgment, which is reproduced below:

“11.From the contentions raised by the learned counsel for the parties it is clear to us that there is no dispute about the position of law that the notified Scheme, whether totally excluding private operators or partially excluding them is binding on all concerned so long as it remains in force. At the same time it is also clear that the Scheme as framed in 1963 does not totally exclude private operators. Indeed it permits operation of stage carriage service by private operators. Therefore, the Scheme is only a partial exclusion scheme. In such a case it is not open to a private operator who is himself operating on a nationalized route on account of modification of the Scheme to seek a writ of mandamus to the Authority not to grant permit to any other private operator on that route or a route overlapping a portion of the route. To put it differently, he is not entitled to enjoy a monopoly of operation of the route. It is up to the Authority to consider whether the application filed by a private operator for permit on that route or another route overlapping that route should be issued or not. In case the private operator who is operating on the nationalized route has a grievance that the number of private operators specified in the notified Scheme is being exceeded then the permit issued to the operator/operators in excess of the specified limit, may be challenged before the statutory for a in accordance with provisions of the Act. In any view of the matter, the writ petition seeking the relief quoted earlier is not maintainable, particularly when neither the private operators who are alleged to have got the permits in excess of the number specified in the notification nor the State undertaking have been impleaded as parties in the case. In such a case a prayer for a declaration in the form as sought in the writ petition could not be granted.”

8. In this context the petitioner submits that route modification infringes specific statutory rights or procedural norms not merely competitive interest and asserts by placing reliance upon the judgments (1) **G.T. Venkataswamy Reddy -vs- State Transport Authority and Others** reported in (2016) 8 Supreme Court Cases 402; and (2)

Prabhat Pan –vs- State of West Bengal reported in **2015 (2) CHN (Cal) 185**.

9. The petitioner draws the attention of this Court to paragraph 48 of **G.T. Venkataswamy Reddy (supra)** to demonstrate that once things gets frozen, the frozen stage can be changed only by way of permitted process.
10. It is submitted that the actual length of the modified route of the private respondent, 'Criss crosses' the E.M. By Pass by plying the vehicle along with Eastern Metropolitan By-pass for a distance of more than 500 Meters, runs contrary to the said notification.
11. It is submitted that the petitioner is an existing operator and falls within the exempted category.
12. The letter and spirit of the Notification dated February 11, 2005 speaks that any operators holding permits prior to the date of Notification shall be exempted and be permitted to ply for a distance of more than 500 meters.
13. The private respondent is an existing operator of a notified route. Subsequently, the route alignment mentioned in the original permit has been modified in the year 2025 which runs contrary to the mandate of the conditions mentioned in the notification by exceeding the permissible limit.

14. The petitioner relies upon a judgment in the case of **Prabhat Pan -vs- State of West Bengal** reported in **2015 (2) CHN (Cal) 185** (supra). In paragraph 17 of the said judgment, it has been categorically held that an existing operator cannot challenge the grant of a permit to a new operator for a Stage Carriage or Contract Carriage on the ground that it prejudices their business, unless the existing operator has a specific grievance, that the authorities have ignored. Paragraph 17 of the said judgment which is reproduced below:

“17. Thus, the dictum in Mithilesh Garg has to be confined to the context of the challenge therein and the ratio decidendi has to be seen as follows: that an existing operator cannot challenge the grant of a permit to a new operator for a part or the whole of the route operated on by the existing operator on the ground that the business on the route or the relevant part of the route would not warrant the new grant. Mithilesh Garg cannot be read to imply that in existing operator prejudiced by an illegal grant of a new permit for a part or the entirety of the route covered by the existing operator will have no right to complain to the authorities of the illegal grant or carry a grievance before a judicial forum upon the complaint going unheeded or being rejected.”

15. It is further submitted that there is an inherent illegality in the decision of the authority by modifying the route alignment of the private respondent since the modifying ‘criss crossing’ the Eastern Metropolitan By-pass for distance of 500 meters is not in consonance with the conditions mentioned in the Notification dated February 11, 2005.

16. The private respondent submits that both the writ petitioner and the private respondent are merely rivals in trade. The petitioner cannot claim to be an aggrieved persons as action of the State respondent in favour of the private respondent does not infringe upon any statutory or fundamental right of the petitioner. The scheme dated 18.2.2005 is a partial exclusion scheme. Under Clause 1 of this said scheme both the petitioner and the private respondent falls under the exempted category and allows the private operators who have been operating prior to the date of publication to continue to ply their vehicles in the notified area. The State Transport being the sole beneficiary can only raise an objection regarding a deviation from the scheme since neither the petitioner nor the private respondent acquires any exclusive vested statutory right as per chapter IV of the Motor vehicles Act, 1988. It is further submitted that the Scheme 2005 is based on the principal of partial exclusion allowing the private operator. The focus is on whether the route variation violates the terms of the scheme or procedural fairness.

17. The petitioner is not entitled to enjoy a monopoly of operation of the said route. The discretion to consider and grant an application for

operation of a modified route rests entirely with the Transport Authority. The respondent authority submits that the judgments relied upon by the petitioner has no manner of application to the present facts since the Transport authority is the sole beneficiary of the scheme and has allowed the prayer of the private respondent without raising any objection with regard to the variation of the route in question.

18. Having heard the parties at length in the light of the above judgment this Court finds that the petitioner has sufficient interest to challenge the modified route alignment covering a distance exceeding the permissible limits which de hors the mandate of the notification dated 11.02.2005. The judgments relied upon by the private respondent have no manner of application and is distinguishable both in facts as well as in law. The judgments are relevant only for considering the prayer of an application for a route permit which is not the subject matter of challenge in the instant writ petition. The objection raised by the private respondent regarding the locus standi of the petitioner has no legs to stand and is thus dismissed.

19. Since the question of the locus of the petitioner to challenge the modified route of the private

respondent has already been decided, the writ petition being WPA 30041 of 2024 shall now be taken up for consideration on merits.

20. The petitioner in the instant case has been granted permanent stage carriage (Bus) permit by the STA West Bengal in respect of route Barasat to Baruipur via Jessore Road, Airport No.1 gate, VIP Road Ultadanga, EM-Bypass, RG Kar Hospital, Garia which has been subsequently renewed on 30.7.2024 till 21.07.2029.

21. The petitioner challenges the resolution dated 20.11.2024 on the ground that action of the State Respondents is illegal as such action is de hors the scheme formulated by the Government of West Bengal vide the Notification dated 11.02.2005. It is further contended by the petitioner that allowing such variation is violating the clause 6 of the said notification which has been allowed by the respondent no. 5 to the Private Respondent to modify the route beyond 500 meters, such modification is arbitrary and illegal in the eye of law.

22. Mr. Amal Kumar Sen, learned A.A.G. and Mr. Pantu Deb Roy. Ld. A.G.P. submits that an existing operation prior to 2005 is exempted; there is no bar on plying the vehicle exceeding the permissible limit of 500 meters.

23. The State respondent draws the attention of the report dated June 6, 2025 by relying upon paragraph 12 and 14 of the report from which it transpires that the distance between Ultadanga to Beliaghata via Kadapara, Bengal Chemicals is about 4.6kms on the E.M. By-pass, is covered under the Notification dated February 11, 2025, the relevant paragraphs of the report are reproduced below :

“12. In this context, the R.T.A. Board, North 24-Parganas in a meeting held on 19th April, 2025 allowed the proposal for alteration of route alignment from Ultadanga to Beliaghata via Kadapara, Bengal Chemical which is about 4 kilometer without altering both the termini point instead of VIP Road, Ultadanga, SDF Building, Science City, Chingrighata, subject to publication of the notification of variation/alteration of the said route from the end of the Transport Department, Government of West Bengal. A copy of the said resolution dated 19th April, 2025 is annexed hereto and marked with the letter “R-1”.

14. Moreover, from the Google map, it would be evident that the distance between Ultadanga to Beliaghata via Kadapara, Bengal Chemicals is about 4.6 kms on the E.M. Bye-pass, which is covered under the notification dated 11th February, 2005. In this context, a copy of the screenshot taken from the google map evidencing distance between Ultadanga and Beliaghata is annexed hereto and marked with the letter “R-2”.

24. As per the report of the State respondent, it appears that the length of the modified route alignment of the private respondent actually ‘criss crossed’ the Eastern Metropolitan By-pass.

25. In view of the above, the resolution no. 9 of RTA Board, Kolkata meeting dated November 20, 2024 and all consequential steps taken pursuant

thereto including the decision of the RTA Board, North 24 Parganas dated 19.4.2025 and notification bearing no. 4730-WT/TPT-18011/43/2025 dated 19.9.2025 issued by the Secretary, Transport Department, Government of West Bengal is hereby quashed and set aside. The members of added respondent no. 10. i.e. members of route no. DN-16 and route no. DN-16/1 bus syndicate, shall be restricted to ply their vehicles strictly in accordance with the route alignment specified in their original permits without any variation.

26. Henceforth, the statutory authorities under the act shall keep a vigil and watch on the erroneous and illegal exercise of power in granting permits under the liberalized policy.

27. The writ petition along with all the connected applications are disposed of.

28. Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Smita Das De, J.)

LATER

The private respondent prays for a stay of the operation of the judgment and order but the same has been objected by the petitioner.

Such prayer is turned down and the stay
is granted till 24th March 2026.

(Smita Das De, J.)