
(2012) 04 CAL CK 0094
In the Calcutta High Court
Case No : Writ Petition No. 6882 (W) of 2012

Bikash Kundu

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 03-04-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 74, 80

Citation : (2012) 04 CAL CK 0094

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : N.I. Khan and Mr. Amlan Kumar Mukherjee, for the Appellant; Amitesh Banerjee and Mr. Tapas Ballav Mandal for the State, for the Respondent

Final Decision : Allowed

Judgement

Hon"ble Mr Justice Jayanta Kumar Biswas

1. The petitioner in this WP under art.226 dated March 29, 2012 is questioning a decision of the Regional Transport Authority, Nadia dated July 7, 2011 (at p.17) rejecting his application for grant of a contract carriage permit. Intending to ply an autorickshaw on a new route - "Krishnagar Rail Station to Jatrapur Bazar via Dogachi, Jalalkhali" - the petitioner submitted an application dated September 27, 2010 under s. 80 of the Motor Vehicles Act, 1988. By the impugned decision the RTA has rejected his application saying as follows: "Too long route. Double journey. Heard, considered and not allowed."

2. Mr Khan appearing for the petitioner submits that delay in approaching the Writ Court is for the reason that the decision was never served on the petitioner who has downloaded it from the website of the RTA. He has said that since the Appellate Tribunal is not available, the petitioner has approached the Writ Court.

3. Relying on a decision of this Court dated February 3, 2012 in WP No. 2101 (W) of 2012 (Lakshan Das v. The State of West Bengal & Ors.) he has submitted that

citing length of the route and number of journey the RTA could not reject the application.

4. Mr Banerjee appearing for the State has considered the Single Bench decision and found little to say in justification of the grounds citing which the application has been rejected. He has, however, said that the documents produced with the WP will show that the impugned order was served on the petitioner.

5. The question is whether citing length of the route and number of journey the RTA could reject the petitioner's application for grant of a contract carriage permit.

6. The Single Bench decision cited in support of the case actually supports the petitioner's contention that citing length of the route the RTA could not reject his application for grant of a contract carriage permit. The application was submitted under s. 80 of the Motor Vehicles Act, 1988. The RTA was required to decide it according to the provisions of s. 74 of the Act.

7. Admittedly, the route in question is not a notified route. Nothing in ss.74 and 80 empowered the RTA to reject the application citing length of the route or number of journey or both. It is evident that the application has been rejected citing extraneous unsustainable grounds. The decision is liable to be set aside. For these reasons, I set aside the impugned decision dated July 7, 2011, allow the WP to this extent and direct the RTA to decide the petitioner's application afresh giving him reasonable opportunity of hearing, within eight weeks from the date of service of this order. No costs. Certified xerox.