
(2000) 01 CAL CK 0054
In the Calcutta High Court
Case No : Writ Petition No. 15503 (W) of 1993

Debashis Ganguly

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 12-01-2000

Acts Referred:

Motor Vehicles Act, 1988 — Section 72

Citation : AIR 2000 Cal 212

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : Prabhat Kumar Chattopadhyay, for the Appellant; T.K. Sengupta and D. Bera for S.B.S.T.C., for the Respondent

Judgement

Barin Ghosh, J.—The scheme of the 1988 Act, as appears to me, authorises the Transport Authority to formulate a route from one terminus to another provided one of the terminus falls within its jurisdiction. Once such route is formulated, such Transport Authority can grant permit to ply stage carriage on the said formulated route. If, however, the route in question falls in the jurisdiction of the another authority, counter-signature of such another Authority is required. In order to obtain such counter-signature, steps as are required to be taken for obtaining a route permit are also required to be taken. In the event, no such counter-signature is obtained, the route permit would not be valid within the territorial jurisdiction of the Transport Authority whose counter-signature was required but has not been obtained. The same principle is also applicable in relation to inter-State routes. If a State has formulated the route from one stage to another, that State may grant a route permit on the said route but that route permit will not be valid in the said State if the other State does not grant counter-signature on the route permit. In order to obtain such counter-signature from the other State, steps as are required to be taken for obtaining the permit are also required to be taken. The Act provides that in the event if there be bilateral .agreements between the States, it would not be necessary for the permit-holder to take steps for obtaining grant of permit while approaching to

obtain the counter-signature. A democratic State enters into an agreement with another democratic State keeping in mind the public need. In the instant case, keeping in mind such public need, the State of West Bengal and the State of Bihar has formulated a route and has entered into an agreement. It has specified that in the said route one permit shall be issued by the State of Bihar and the other by the State of West Bengal. In addition to the number mentioned above, other permits may be granted, provided steps are taken to obtain the same by following the usual procedure. But in so far as these two permits are concerned, to obtain the permit, steps are to be taken as are required but to obtain the counter-signature, steps are not to be taken as are required to obtain a permit. In other words, for these two permits, by reason of the reciprocal arrangement, counter-signature would be granted as a matter of course by the other State, if one State grants a permit.

2. Having regard to the nature of the public demand, not only the route was formulated but the number of stage carriages to be plied was also ascertained. In order to fulfil such demand, though the agreement is dated 27-5-88, advertisement inviting applications for obtaining such permit was issued on 11-6-91 by the State Transport Authority, West Bengal. Very many persons including the petitioner and the South Bengal State Transport Corporation applied to obtain such permit to the State Transport Authority, West Bengal. The permit was granted in favour of the South Bengal State Transport Corporation. Such grant having been challenged successfully by the petitioner in a writ petition filed in this Court, the same was cancelled and the matter was directed to be decided once again afresh. On the basis thereof, on 16-6-93 a decision was taken by the State Transport Authority, West Bengal to grant such permit once again to South Bengal State Transport Corporation. In terms thereof, in 1993 itself, South Bengal State Transport Corporation was granted the Permit No. P. St. P-5/93 (I/S) to ply a bus on the route in question, i.e. from Asansol to Dumka. On an allegation that despite such grant, the South Bengal State Transport Corporation has not plied any bus ever on the route in question and, therefore, has expressed an intent not to ply any bus on the said route and, therefore, the grant of the one and the only permit in favour of the South Bengal State Transport Corporation has become redundant, the present writ petition was filed.

3. When the matter was taken up for hearing, it was submitted that even during the pendency of the writ petition, no step was taken by the South Bengal State Transport Corporation to ply any bus or stage carriages on the route in question despite having had obtained the said permit. Accordingly, I asked the learned counsel appearing for the South Bengal State Transport Corporation to intimate me as to when South Bengal State Transport Corporation would deploy its vehicle on the route-Asansol to Dumka in terms of the permit granted in its favour. The learned counsel has produced copy of a letter dated 24-8-99 written by South Bengal State Transport Corporation to the Secretary, State Transport Authority, West Bengal and a letter dated 15-12-99 written by the South Bengal State Transport Corporation to its Advocate-on-Record in the instant case. The learned

counsel for the South Bengal State Transport Corporation has also submitted before me that as yet no bus or stage carriage or any other vehicle had been deployed even for one single day by the South Bengal State Transport Corporation on the route in question. In the first letter referred to above, it appeared that the validity of the initial permit expired. South Bengal State Transport Corporation then applied for obtaining renewal of the permit, which was readily granted by the State Transport Authority, W.B.. It then approached the State Transport Authority, Bihar to obtain counter-signature on the renewal. The State Transport Authority, Bihar agreed to grant counter-signature upon payment of arrear tax from the date of issue of the original permit, i.e. with effect from 1-8-93. In the said letter, it has further been written that State Transport Authority, Bihar will not insist for such tax if a new permit is issued. In the premises, by that letter, a request had been made to the State Transport Authority, West Bengal to take up the matter with the State Transport Authority, Bihar so that South Bengal State Transport Corporation is not required to pay the tax as is payable in respect of the permit in question. The second letter contains informations pertaining to the matters dealt in the first letter.

4. It is, therefore, clear that although the public need for the route in question was finally decided on 27-5-88 but for grant of the permit on the route in question in favour of the South Bengal State Transport Corporation, the said public need has not been satisfied even until today. For 12 years, such need has not been fulfilled. Of the 12 years, for 7 years South Bengal State Transport Corporation alone was responsible for not fulfilling the public need.

5. From the letter dated 24-8-99, it is now crystal clear that unless the new permit is granted to the South Bengal State Transport Corporation, it cannot ply any bus or stage carriage on the route in question as it is incapable of paying and discharging its statutory duties and obligations for the permit, which was granted in its favour on 1-8-93. The original grant, therefore, in terms of the said advertisement, has, therefore, been vitiated by the total inaction on the part of the South Bengal State Transport Corporation. It is also not seeking to retain the said permit, and on the contrary is seeking a new permit.

6. In these circumstances, I declare that the permit granted in favour of the South Bengal State Transport Corporation being P.St.P-5/93 (I/S) stands quashed. The State Transport Authority, West Bengal is directed to re-consider within two months from the date of communication of this order the applications it had received pursuant to the advertisement dated 11-6-91 excepting the application of the South Bengal State Transport Corporation and to grant a permit within the said period of two months to the person, who is still agreeable to deploy stage carriage on the route in question. This consideration must be done after giving notice to each of the eligible applicants mentioned above.

7. This order will not prevent the South Bengal State Transport Corporation to apply for grant of a permit on the route in question but such application shall not be considered in terms of the said agreement between the State of West Bengal

and the State of Bihar for the route in question.

8. The writ petition is thus disposed of.

9. Let urgent xerox certified copies of this order, if applied for, be supplied to the respective parties at an early date.