
(2010) 01 CAL CK 0035
In the Calcutta High Court
Case No : Writ Petition No. 303 of 2009

Kartick Chandra Hembram and Another	APPELLANT
Vs	
The State of West Bengal and Others	RESPONDENT

Date of Decision : 06-01-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 01 CAL CK 0035

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Probath Kumar Chattopadhyay, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

Jayanta Kumar Biswas, J.—The petitioners in this Article 226 petition dated March 24, 2009 are seeking a mandamus commanding the State Transport Authority, West Bengal to grant them a permanent stage carriage permit for the route Bagmundi - Kolkata.

2. The petitioners submitted the requisite application, Annexure P1 at p.43. Alleging that their application was not considered by the transport authority, they moved WP No. 2184 of 2003 under Article 226. The petition was disposed of by an order dated November 18, 2003 directing the transport authority to dispose of the application.

3. By a decision dated December 30, 2003, Annexure P5 at p. 50, the transport authority rejected the application for the following reasons:

Considering inadequate space in the existing bus stand for halting more buses, the magnitude of air/vehicular pollution, traffic congestion and insufficient road space to bear further traffic load in Kolkata and Howrah, State Transport Authority, West Bengal, therefore, resolved to reject the prayer of the applicant for grant of permit on the route Bagmundi to Kolkata on the ground that the

further entry of stage carriage service in Kolkata/Howrah will aggravate the present traffic congestion and vehicular pollution and disrupt the smooth traffic flow of Kolkata.

4. Feeling aggrieved, the petitioners moved WP No. 446 of 2004 under Article 226 and the petition was disposed of by a judgment and order dated March 12, 2004, Annexure P7 at p.53. The decision of the transport authority was set aside and it was directed to reconsider the application making it clear that the prayer for permit should not be refused on any ground other than any "deficiency of the" petitioners.

5. In compliance with the order the transport authority gave a decision dated April 21, 2004, Annexure P10 at p.58. The decision is set out below:

The case of Sri Kartick Chandra Hembarm & another for ordering permit on the route Bagmundi to Kolkata via Bundwan, Khatra, Arambagh as night service was placed in the meeting for consideration in compliance with the order of Hon'ble High Court dated 12.3.2004 in writ petition No. 446 (W) of 2004. After discussion, STA, West Bengal has resolved to grant the permit on the route Bagmundi to Howrah New Bus Terminus subject to submission of detailed route alignment. Production of new BS.II emission norms vehicle and the vehicle should be registered in his own name.

6. Feeling aggrieved by the decision of the transport authority dated April 21, 2004 this petition has been taken out. The case is that for undisclosed reasons the transport authority decided to grant a permit for the route Bagmundi-Howrah New Bus Terminus when the application was for a permit for the route Bagmundi-Kolkata. It has been stated with supporting documents that the transport authority has been issuing permits for various different routes originating at various different places in the state but ending in Kolkata.

7. By an order dated April 28, 2009 the petition was admitted and at the admission stage Counsel for the transport authority submitted that the transport authority did not issue the offer letter because it was contemplating to review its decision dated April 21, 2004 to grant the petitioners a permit for the route Bagmundi-Howrah New Bus Terminus. The respondents have not filed any opposition and none appears for them.

8. No provision of the Motor Vehicles Act, 1988 empowers the transport authority to review its decision dated April 21, 2004 to grant the petitioners a permanent stage carriage permit for the route Bagmundi-Howrah New Bus Terminus. It is not the case that the decision is the outcome of any misrepresentation of fact or fraud exercised by the petitioners. I, therefore, do not see any reason why the transport authority did not issue the offer letter.

9. But then, the petitioners are aggrieved by that part of the decision whereby the transport authority refused their prayer for grant of a permit for the route Bagmundi-Kolkata. For undisclosed reasons and of its own accord the transport

authority decided to grant a permit for the route Bagmundi-Howrah New Bus Terminus when the petitioners applied for a permit for the route Bagmundi-Kolkata. The case of the petitioners stated in the petition with supporting documents that the transport authority has issued permits for various different routes originating at various different places in the state but all ending in Kolkata has remained uncontroverted.

10. Under the circumstances, I see no reason why the transport authority refused the petitioners a permit for the route they specified in their application. In this context it is to be noted that in the order dated March 12, 2004 this Court made it clear that the transport authority should not refuse the prayer for permit for the route specified in the application on any ground other than the petitioners' deficiency, if any. It is evident from the decision of the transport authority that a part of the prayer has been refused for undisclosed reasons and certainly not for any deficiency in the petitioners. In my opinion, the transport authority was not competent to do it.

11. For these reasons, I allow petition and order as follows. Within a fortnight from the date of communication of this order the transport authority shall issue the requisite letter offering the petitioners a permanent stage carriage permit for the route specified in their application. If the petitioners comply with the terms and conditions of the offer letter, then the transport authority shall issue a permit for the route. No cost. Certified xerox according to law.