

(2012) 07 CAL CK 0116
In the Calcutta High Court
Case No : Writ Petition No. 14306 (W) of 2012

Nakul Mondal and Another	Vs	APPELLANT
State of West Bengal and Others		RESPONDENT

Date of Decision : 16-07-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 07 CAL CK 0116

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Dilip Kumar Samanta and Mr. Biswapriya Samanta, for the Appellant; Pantu Deb Roy, Jayanta Banerjee and Mr. Sk. Md. Galib for the State, for the Respondent

Final Decision : Dismissed

Judgement

Hon'ble Mr Justice Jayanta Kumar Biswas

1. The Court:- The petitioners in this WP under art. 226 dated July 4, 2012 are seeking the following principal relief:

a) A writ in the nature of Mandamus commanding the Respondent No.2 to take steps on the basis of the legal notice (Annexure - P/2 to this Writ Petition) for cancellation of the illegal permits being being P.St.P. No. 5/07-08, P.St.P. No. 58/09-10, P.St.P. No.8/07-08, P.St.P. No. 43/09-10, P.St.P. No.39/09-10 and P.St.P. No. 29/09-10 forthwith.

Case stated in para.2 of the WP is as follows:-

2. Your petitioners are the holders of the permanent stage carriage permit on the routes Bahutali to Farakka via - Raghunathganj and Raghunathganj to Berhampore via - Moregram (hereinafter referred to as the said routes) respectively issued by respondent No.2. Your petitioners have operating their vehicles in the said route in the interest of the travelling public at large.

Copies of the said permanent stage carriage permits are annexed hereto and collectively marked as - P/1.

Case stated in para.3 of the WP is as follows:-

3. Your petitioners state that in course of operation of vehicles on the said routes it appears to your petitioners that the respondent No.3 had issued few permanent stage carriage permits being P.St.P. No. 5/07-08, P.St.P. No. 58/09-10, P.St.P. No.8/07-08, P.St.P. No. 43/09-10, P.St.P. No.39/09-10 and P.St.P. No. 29/09-10 having no jurisdiction under the Motor Vehicles Act, 1988. Your petitioners state that the respondent No.2 is the appropriate lawful authority authorized by the Motor Vehicles Act, 1988 for granting permanent stage carriage permits and instead thereof the respondent No.3 issued the above permits in favour of the operators most illegally and arbitrarily and that too without having any jurisdiction under the Motor Vehicles Act, 1988.

2. It is evident from the case stated in the WP that it is only qua the holders of a few permanent stage carriage permits for the routes mentioned in the permits that the petitioners are questioning the validity of a few permits issued for the same routes by the Regional Transport Authority, Murshidabad to some persons who are not parties to the WP.

3. The question is whether the petitioners are entitled to question the validity of the permits issued by the RTA to some persons for the same routes for which they had been granted permits.

4. In *Mithilesh Garg v. Union of India & Ors.*, AIR 1992 SC 443 the Supreme Court clearly held that no existing operator has a right to question a grant of permit to another operator.

5. Mr Samanta appearing for the petitioners has said that since the petitioners are not questioning the grant of permit to any operator, and they are only contending that the permits in question have been issued by the Secretary of the RTA in contravention of the statutory provisions, nothing in *Mithilesh Garg* can apply to the case.

6. I am unable to accept the argument. What the petitioners are actually questioning is the validity of the grant of the permits whose numbers have been mentioned in para.3 of the WP. As existing operators they are not entitled to question the grant of the permits to other operators.

7. It is not to be examined here whether validity of the grant of the permits could be questioned in a public interest litigation, or whether the petitioners could lodge a complaint seeking initiation of departmental proceedings against anyone wilfully contravening any provision of law. For these reasons, the WP is dismissed. No costs. Certified xerox.