

(1996) 02 CAL CK 0020
In the Calcutta High Court
Case No : C.O. No. 12110 (W) of 1995

Nani Gopal Dutta and Others

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 16-02-1996

Acts Referred:

Citation : 100 CWN 541

Hon'ble Judges : Satya Brata Singh, J

Bench : Single Bench

Advocate : D.K. Samanta, for the Appellant; N.I. Khan, for the Respondent

Judgement

Satya Brata Singh, J.—In C.C. No. 12110(W) of 1995 an application for contempt has been filed for wilful disobedience of this court's order dated 18th July, 1995 and in C.O. No. 12109(W) of 1995 an application for contempt has been filed for wilful disobedience of the order passed by this court on the same date. By reason of an order dated 18th July 1995 this court directed the Regional Transport Authority to hear the objection filed by the petitioners in terms of the order passed by this Court in C.O. No. 10783(W) of 1995 and not by the Secretary within a period of 8 weeks from the date of communication of the said order.

2. Similar order was passed in Nani Gopal Dutta's case (supra). The said order had to be passed keeping in view the fact that despite passing of an order of this Court in earlier writ application wherein it was held that it is the Regional Transport Authority itself and not the Secretary who is competent to hear the objection. By reason of a letter dated 11th July, 1995, however, the Secretary although purporting to act on behalf of the Regional Transport Authority directed the Secretary of the Bus Owners' Association to appear before him. The said order was communicated on 18th July, 1995. By a notice dated objection and as contained in Annexure "F", the Secretary of the Authority was requested by the petitioners to cancel the hearing.

3. However, despite the same, the hearing took place and the objection of the

petitioners were overruled. An affidavit-in-opposition has been filed by the contemner No. 2, from a perusal whereof it appears that the matter was in fact heard by the Regional Transport Authority. It is stated that the aforementioned letter dated 11th July. 1995 contained a mistake inasmuch as the Regional Transport Authority wrongly used the words "the existing operators of Bus Nos. 81 and 85 are being directed to appear before me for hearing on 18th July. 1995: and such a mistake would be evident from the fact that the letter was addressed by the Regional Transport Authority itself.

4. It further appears that in the said letter the addressee was directed not to ply buses beyond Barrackpore Railway Station upto which those buses had been plying till recently.

5. The question which arose for consideration before the Regional Transport Authority was as to whether a temporary permit can be extended. It is now well settled that temporary permit can be granted only if one or the other factors mentioned in Section 87 of the Act is fulfilled. Evidently the petitioners were misled by the said letter and made a request to cancel the meeting on the ground that they have filed a writ application but despite the same, the meeting was held on 18-7-95. As admittedly a mistake had been committed by the Secretary of the petitioners filed the aforesaid writ application on 18th July, 1995 itself; I am of the opinion that the order as contained in Annexure "A to the affidavit-in-opposition should not be sustained inasmuch as evidently the notice for hearing was given by the Secretary of the Regional Transport Authority. Such a mistake on his part may be bona fide but or the same, in my opinion, the petitioners cannot suffer.

6. In this view of the matter although technically the respondents have committed contempt of this court but in view of the clear stand taken by them I do not intended to proceed further in the contempt matter and instead dispose of these applications by directing that the order dated 18th July. 1995 as contained in Annexure A" to the affidavit-in-opposition shall stand canceled and the respondents should give a fresh opportunity of hearing to the petitioners. This order is being passed in view of the fact that the petitioners have raised an interesting question of law and by reasons of such order, nobody shall suffer any prejudice inasmuch as the existing operators would also be given an opportunity of hearing. These applications are disposed of with the aforementioned observations and directions.