
(2010) 07 CAL CK 0100
In the Calcutta High Court
Case No : Writ Petition No. 1342 of 2008

Pannalal Mukherjee

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 06-07-2010

Acts Referred:

Citation : (2010) 07 CAL CK 0100

Hon'ble Judges : Debasish Kar Gupta, J

Bench : Single Bench

Advocate : Pantu Deb Roy and Mr. Upendra Roy, for the Appellant; A.K. Bera and Mr. Soumen Bhattacharya for Respondents No. 5 and 6, for the Respondent

Final Decision : Dismissed

Judgement

Debasish Kar Gupta, J.—This writ application is directed against two resolutions dated April 29, 2008 adopted in the meeting of the respondent No.2 granting stage carriage permit in favour of the respondent Nos. 5 and 6 on the route from Duttapukur to Dhulagarh via V.I.P. Road, E.M. Bye Pass, Science City, P.G., 2nd Hooghly Bridge.

2. According to the petitioner, granting of new stage carriage permit on a route covering the Eastern Metropolitan Bye Pass (from Ultadanga-C.I.T. Road-HUDCO crossing-Garia Station Road-E.M.Bye Pass crossing) was not permissible on the basis of the Scheme adopted by the State Government under Notification No. 1010-WT/3M-154/2004 dated February 11, 2005 (hereinafter referred to as the said notification).

3. On the other hand, it is submitted by the learned advocate appearing for the respondent Nos. 5 and 6 that Clause 5 of the said notification excluded the stage carriage permit holders covering at least four (4) regions and using Vidyasagar Setu from the purview of the said notification. According to him, the route under reference covered four (4) regions using Vidyasagar Setu. Therefore, the restriction imposed by the said notification was not applicable in respect of the

aforesaid resolutions dated March 25, 2008 adopted in the meeting of the respondent No.2.

4. The learned advocate appearing for the respondent Nos. 5 and 6 relies upon an unreported decision dated October 4, 2007 in the matter of Sri Sandip Ghosal v. State of West Bengal & Ors. (In re: W.P. No. 1831 of 2006). According to him, the above judgment was affirmed by a Division Bench of this Court by judgment dated December 17, 2008 delivered in the matter of Pannalal Mukherjee v. Sandip Ghosal & Ors. (In re: APOT No. 403 of 2008).

5. Having heard the learned counsel appearing for the respective parties and after considering the facts and circumstances of this case, I find that admittedly, Clause 5 of the said notification excluded the stage carriage permit holders carrying at least four (4) regions and using Vidyasagar Setu from the purview of the said notification. It is also undisputed that the route under reference covered four (4) regions and using Vidyasagar Setu. Therefore, admittedly, the route under reference was exempted from the said notification.

6. The above issue has already been decided by this Court by a judgment dated October 4, 2007 delivered in the matter of Sandip Ghosal v. State of West Bengal (In re: W.P. No. 1831 of 2006). The above decision has been affirmed by a Division Bench of this Court by a judgment dated December 17, 2008 in the matter of Pannalal Mukherjee v. Sandip Ghosal & Ors. (In re: A.P.O.T. No. 403 of 2008) and the relevant portions of the above decision are quoted below:

"The applicant urges that just as in the first clause of the classes exempted under the Scheme, the other clause would also imply that only existing permit holders as on the date of the notification covered by each clause would be beyond the pale of the bar under the Scheme unless the relevant clause expressly exempted future permit holders. In furtherance of such line of argument, the applicant refers to the third clause and says only such clause contemplates an exemption for future permit holders.

Such contention of the applicant appears to be flawed on a plain reading of the Scheme. Though the applicant is concerned only with the fifth limb of the exempted classes, it would defy reason to construe all the clauses except the third to grant exemption only to existing permit holders. For instance, if the fourth clause is understood to imply that existing contract carriage or special permit holders carrying school children were exempted, it would mean that no contract carriage or special permit can be granted in future for carrying school children on the scheduled route. This would lead to an absurd result. Such absurdity would also apply to clauses 6, 7 and 8 and, indeed, to Clause 9. It is plain to see that only the first clause exempts only the existing permit holders as on the date of the publication of the approved schedule and such principle has thus to be restricted to the first clause and not applied to the other clauses."

7. In view of the above settled principles of law, I find no merit in this case. This writ application stands dismissed. There will, however, be no order as to costs.

Let an urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of requisite formalities.