
(2019) 10 CAL CK 0021

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 15503 (W) Of 2019

Raj Krishna Roy

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 01-10-2019

Acts Referred:

Motor Vehicles Act, 1988 — Section 86

Citation : (2019) 10 CAL CK 0021

Hon'ble Judges : Subrata Talukdar, J

Bench : Single Bench

Advocate : Arabinda Chatterjee, Kakali Dutta, Amal Kumar Sen, Lal Mohan Basu

Final Decision : Allowed

Judgement

Subrata Talukdar, J

Mr. Chatterjee, learned Senior Counsel, appears for the petitioner and challenges the Resolution of the Regional Transport Authority (RTA), Purba Burdwan dated 28th June, 2019. By the said Resolution the prayer of the petitioner for conversion of his Temporary Stage Carriage Permit (for short STP) was rejected on the ground that there is no statutory provision supporting such conversion.

Learned Senior Counsel for the petitioner points out that he was granted a temporary STP on the route Hamatpur to Benachity vide Resolution of the RTA, Purba Burdwan dated 6th July, 2018. The temporary STP was renewed up to 28th of January, 2019, after which date renewal was stopped all on a sudden

Relying on the authority of 1996(1) CLJ page 284, In Re: Samir Chowdhury vs. State of West Bengal, Mr. Chatterjee submits that successive temporary STPs demonstrate that there is a public need/demand for the route in issue. Mr. Chatterjee heavily relies on Paragraphs 3, 4 and 5 of In Re: Samir Chowdhury (supra) which read as follows:

"3. Having considered the submissions made on behalf of the petitioner and the

State, the respondents concerned are directed to approve the petitioner's time-table within a week from date and during the interim period, the petitioner should be allowed to ply his vehicle on the basis of his earlier time-table. As far as the petitioner's second grievance is concerned, the Hon'ble Supreme Court has on repeated occasions deprecated the practice of grant of successive temporary permits. In the case of (1) A. Viswanathan v. State Transport Appellate Tribunal, Pondicherry reported in AIR 1987 SC 731, the Hon'ble Supreme Court has observed that issuance of successive temporary permits reveals that there is a permanent need on the route in question and the authorities concerned should consider such aspect of the matter so that an operator does not have to apply every four months for grant of such permits.

4. Similar sentiments have been expressed in the case of (2) M/s. Basant Roadways v. State Transport Appellate Tribunal & Ors. reported in AIR 1987 SC 116. Furthermore, in the case of Bengal Bus Syndicate, the State of West Bengal has in fact informed the Supreme Court that they are prepared to convert temporary permits into permanent permits on certain conditions.

5. Having regard to the above, I dispose of this application with a further direction that the respondents should take steps to convert the successive temporary permits granted to the petitioner into a permanent permit on the route in question.

Per contra, Mr. Sen, learned Additional Government Pleader (AGP) submits that the permanent STP is yet to be cancelled. The permanent STP admittedly has been renewed to be valid up to December 10, 2019. Learned AGP points out that it is open to the petitioner to apply for a permanent STP which shall then be considered in accordance with law along with other applicants.

Having heard the parties and considering the materials placed, this Court holds as follows:

(A) That the temporary STP of the petitioner was renewed from time to time from July, 2018 to January, 2019. Such renewal shows that there is a need of commuters for service on the said route.

(B) That the judgment as reported in 1996(1) CLJ page 284 (supra) applies with full force to the facts of this case. Therefore, the petitioner has made out a case for conversion of the temporary STP

(C) That to a permanent STP it is strange that the RTA, Purba Burdwan is not exercising its powers under Section 86 of the Motor Vehicles Act, 1988 which provides for cancellation of a permanent STP under the conditions as prescribed. It is evident from the record that the permanent STP holder is not plying his vehicle from July, 2018.

Accordingly, while considering the case of the petitioner for conversion of his temporary STP to a permanent STP, the RTA, Purba Burdwan shall be also entitled to take steps under Section 86 of the 1988 Act.

With the above findings the matter is remanded to the RTA, Purba Burdwan for fresh consideration in the light of the above findings and in accordance with law.

It is expected that such consideration shall not be delayed beyond 12 weeks from the date of communication of this order.

In the interregnum the petitioner shall be entitled to restoration of his temporary STP for the route in issue since admittedly, with the consent of the RTA, Purba Burdwan the petitioner has been operating on the route to meet a public need.

The impugned resolution of the RTA, Purba Burdwan dated 28th June, 2019 stands thus, set aside.

W.B. 15503(W) of 2019 stands accordingly allowed.

Since a point of law has been argued by the parties based on admitted facts, affidavits have not been invited. Allegations therefore are deemed to have been denied.

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.