

(2012) 08 CAL CK 0147
In the Calcutta High Court
Case No : Writ Petition No. 16860 (W) of 2012

Soumen Saha

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 06-08-2012

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1988 — Section 74, 74(3)(b)(i)

Citation : (2012) 08 CAL CK 0147

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : N.I. Khan and Mr. Amlan Mukherjee, for the Appellant; Md. Galib for the State, for the Respondent

Judgement

Hon''ble Mr. Justice Jayanta Kumar Biswas

1. The petitioner in this WP under art. 226 dated July 27, 2012 is questioning a decision of the Regional Transport Authority, Nadia dated April 23,2012 rejecting his application for grant of contract carriage permit (auto-rickshaw). Relevant part of the impugned decision dated April 23,2012 is quoted below:

In compliance with the order dated 10.02.2012 of the Hon''ble High Court, Calcutta [in ref. W.P no 2589 (w) of 2012], while considering the application, heard the applicant. But the applicant failed to satisfy the RTA regarding necessary conditions like his capacity to ply the auto-rickshaw at the applied route as he did not furnish any document and proof showing financial capability as required u/s 74(3)(b)(i) of Motor Vehicle Act 1988, during hearing. Hence his application for auto-rickshaw route permit on the route from " Anandapur to Jhikrabazar" could not be granted.

2. Mr. Khan appearing for the petitioner submits that no notification was issued with respect to the route for which the petitioner wanted permit. The position is not disputed by Mr. Galib for the State.

3. When the route in question was not covered by any notification issued under s. 74, the RTA could not decide the petitioner's application applying the provisions of sub-s.(3) of s. 74. The provisions of sub-s.(3) are applicable only when a notification with respect to the route limiting the number of contract carriage is issued. The petitioner's application was to be decided applying the provisions of sub-ss.(1) and (2) of s. 74 of the Motor Vehicles Act, 1988. The impugned decision cannot be sustained. For these reasons, the impugned decision is set aside, the WP is allowed to this extent and the RTA is directed to decide the petitioner's application for grant of a contract carriage permit for the route in question giving him fresh opportunity of hearing, within eight weeks from the date this order is served. No costs. Certified xerox.