
(2018) 06 CAL CK 0044
In the Calcutta High Court
Case No : Writ Petition8504 (W) of 2018

Soumyajit Pal

APPELLANT

Vs

State Of West Bengal And Others.

RESPONDENT

Date of Decision : 27-06-2018

Acts Referred:

Motor Vehicles Act, 1988 — Section 72(2)(xxii)
West Bengal Motor Vehicles Rules, 1989 — Rule 119
Constitution of India, 1950 — Article 226

Citation : (2018) 06 CAL CK 0044

Hon'ble Judges : HARISH TANDON, J

Bench : Single Bench

Advocate : Biswapriya Samanta, Srijan Nayak, Ayan Banerjee, Partha Sarathi
Bhattacharya, Niraj Gupta

Final Decision : Dismissed

Judgement

The writ petition is filed by an unsuccessful operator challenging an order dated 30th May 2018 passed by the Deputy Secretary, State Transport

Authority, West Bengal rejecting an application for revision of the time table. The petitioner says that he is a holder of the permit on InterState route

between Bolpur to Deoghar via Dumka Point and the time table indicates that he has to depart Dumka Point at 15.30 hours i.e. twenty two minutes ahead.

The grievance of the petitioner is that he is the older permit holder and, therefore, the authority must give some preference and/or credence for his

longer stay in operating the vehicle at the said route over the other permit holders of shorter stay. It is submitted that if there is a clash between the

time table approved by the competent authority to different operators in the same route or on a overlapping route, the authority must decide the same

for smooth functioning and plying of the vehicles and above all taking into account the convenience of the commuters.

The petitioner has approached the authority and it appears from the reasons recorded in the impugned order that there is a time gap of twenty two

minutes in the departure time from Dumka Point and, therefore, the authority thought the said time difference to be reasonable one. The petitioner

harps before the authority that there should be a forty-five minutes time gap at Dumka Point, which the authority does not find to be reasonable and

convincing.

Though Mr. Biswapriya Samanta, learned advocate appearing on behalf of the petitioner, is very much vocal in his submission that the Court can

interfere with such order in exercise of the powers enshrined under Article 226 of the Constitution of India but this Court does not find that it is such a

fit case where this Court should exercise such discretion. The Writ Court is not concerned with the decision of the authority but certainly on the decision

making process.

Rule 119 of the West Bengal Motor Vehicles Rules, 1989 postulates that in case of dispute in respect of time table for Stage Carriage Permit on a

route or area the decision of the Transport Authority granting the permit or of the officer authorized under the rule shall be final. Even if the statute or

sub-ordinate legislature gives sanction to finality of an order yet it does not stand in the way of the aggrieved person to approach the Court provided

the process through which the decision has been taken appears to be irrational, unreasonable and de hors the legal parameters or shocking to the

conscience of the learned Judge.

Mr. Samanta placed reliance upon the provisions contained under Section 72(2) (xxii) of the Motor Vehicles Act, 1988 in support of the contention that

the Regional Transport Authority may vary the conditions of the permit or may attach to the permit further conditions provided the conditions specified

under clause (i) shall not be varied so as to alter the distance covered by the original route for more than 24 kilometers and any variation within such

limits shall be made only after the Regional Transport Authority is satisfied that such variation will serve the convenience of the public and it is not

expedient to grant a separate permit in respect of the original route as so varied or any part thereof.

This Court does not find that any relevance to the aforesaid provisions. It simply recognizes the power of the authority to vary the conditions or the

permit and to attach a further conditions under the special circumstances enumerated therein and does not give right to an operator to have the

variation in the permit as per his convenience or as per his whims.

If the authority after taking into account does not find that the conditions incorporated in the permit requires any variation as the circumstances

indicated therein is not imminent and/or present, this Court, therefore, does not find that any interference is called for to the order of the competent

authority. This Court, therefore, does not find that any such case has been made out. The writ petition sans merit and the same is hereby dismissed.

There shall, however, be no order as to costs. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.