

(2012) 04 CAL CK 0121
In the Calcutta High Court
Case No : Writ Petition No. 7090 (W) of 2012

Sri Krishna Chatterjee

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 16-04-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 74, 80

Citation : (2012) 04 CAL CK 0121

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Gita Mukherjee, for the Appellant; Srilekha Bhattachaya, for the Respondent

Final Decision : Dismissed

Judgement

Hon'ble Mr Justice Jayanta Kumar Biswas

1. The petitioner in this WP under art. 226 dated April 2, 2012 is seeking the following principal relief:

"a) A writ of Mandamus commanding the Respondent Authorities in general and Respondent no.2 in particular and each one of their men, agents and subordinates to act in accordance with law to immediately grant auto route permit in favour of the petitioner on Bongaon route and take all necessary steps in this regard."

The petitioner applied to the Regional Transport Authority, North 24- Parganas for grant of a contract carriage permit. Then alleging inaction he moved a WP No.21577(W) of 2008 before this Court under art. 226. By an order dated September 11, 2008 (at p.30) the WP was disposed of directing the RTA to decide the application. Accordingly, the RTA gave a decision dated October 20, 2008 (at p.31).

2. Relevant part of the decision of the RTA dated October 20, 2008 is quoted

below:

"Heard the petitioner. During hearing the petitioner made it clear that he is not interested on any route in Bongaon Area since he is a resident of Noapara, Barrackpore. He also insisted that his application for permit for autorickshaw should be considered for the route from Barrackpore to Shyamnagar only. He has also submitted a written representation in this regard.

The RTA considered the representation made by the petitioner. In terms of notification No. 3438-WT/3M-139/2004 dated 02/08/2004 no permit for autorickshaws can be issued on any route lying within KMA. Since the route, for which the petitioner has made the representation, is lying wholly within KMA this RTA decided not to allow the prayer of the petitioner. Secretary RTA is directed to inform the petitioner accordingly."

3. Counsel for the petitioner submits as follows. In spite of repeated representations of the petitioner, a handicapped person, the RTA has not reconsidered the decision dated November 24, 2008 for examining whether the petitioner could be granted a permit for a Bongaon route. The petitioner did not want reconsideration pursuant to any provision of the Motor Vehicles Act, 1988. He wants this Court to issue a mandamus commanding the RTA to reconsider the decision.

4. The decision dated October 20, 2008 was given by the RTA in the discharge of its statutory duties created by s. 74 read with s.80 of the Motor Vehicles Act, 1988. No provision of law empowered the RTA to review or reconsider the decision. Besides, no application for review was filed.

5. Power under art. 226 cannot be exercised for commanding a statutory authority to exercise review power not conferred by the statute concerned. Besides, the petitioner is not seeking review on the grounds that the RTA was wrong in giving the decision. He is seeking review on the grounds that under a misconception he declined to take permit for a Bongaon route. The allegation of inaction is totally baseless. For these reasons, the WP is dismissed. No costs. Certified xerox.