

(2014) 07 CAL CK 0060

In the Calcutta High Court

Case No : W.P. No. 12970 and 12971 (W) of 2014

Swadesh Ranjan Nayak

APPELLANT

Vs

The State of West Bengal

RESPONDENT

Date of Decision : 07-07-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 2(38), 68(3)(a), 68(3)(ca)

Citation : (2014) 07 CAL CK 0060

Hon'ble Judges : Joymalya Bagchi, J

Bench : Single Bench

Advocate : Arun Kanti Bera, Gitashree Mistry and Soumi Pal, Advocate for the Appellant; Amal Kumar Sen, Sabyasachi Mondal and Lal Mohan Bose, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Joymalya Bagchi, J.—Affidavit-of-service filed today is kept with the record.

2. After having heard the learned counsel for the parties, both the matters are taken up together and are disposed of by a common judgment and order.

3. In W.P. No. 12970 (W) of 2014, the petitioner had applied for grant of stage carriage permit in respect of the following route:

Sankarpur to Kiyagaria via Ramnagar, Thikramore, Alankerpur, Digha, New Digha.

4. Mr. Bera, learned counsel, appearing for the petitioner submitted that the termini in respect of the proposed route are common in respect of termini in formulated route no. T/129 (Sankarpur to Ramnagar) and route no. T/101 (Pratapdighi to Keyageria via Argol, Kalibazar, Pausi, Kaliaagar, Nachinda, Contai, Pichaboni, Digha & back). Accordingly he submitted that his application for stage carriage permit for the proposed route was valid in law and ought to have been considered on merits after receipt of requisite fees.

5. In W.P. No. 12971 (W) of 2014, the petitioner has similarly applied for grant of

stage carriage permit in respect of the following route:

Sankarpur to Mandarmani via Ramnagar, Balisai, Sapua, Choulkhola, Kalindi.

6. Mr. Bera, learned counsel, appearing for the petitioner has submitted that termini in the proposed route were common with formulated routes being route no. T/130 (Mondarmani to Chaulkhola) and the route no. T/79 (Mandarmoni to Balisai via Sonamui, Dadanpatrabar, Kalindi, Choulkhola & back). Admittedly, Sankarpur is the Terminal in respect of other formulated routes. Hence, he submitted that the application for permit ought to have been considered on merits.

7. Mr. Sen, learned counsel, appearing for the state-respondents in both the matters submitted that the proposed routes did not fall within routes formulated by the State Government u/s 68(3)(ca) of the Motor Vehicles Act, 1988. Accordingly, he further submitted that applications for grant of route was stage carriage permits for such routes were not maintainable in law.

8. In rebuttable, Mr. Bera, learned counsel for the petitioner, relied on unreported decisions of this Court in W.P. No. 2667 of 1999 and W.P. No. 18468 (W) of 2003.

9. The moot question which falls whether application for grant of stage carriage permit in respect of proposed route which is no a formulated route u/s 68(3)(a) of the Motor Vehicles Act, 1988 is maintainable or not.

10. Section 2(38) of the Act defines "route" is as follows:

"route" means a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another.

11. An analysis of the aforesaid definition would show that a line of travel would qualify as a "route" in law provided it runs over a highway through which the motor vehicle may traverse and extends from one terminus to another.

12. Hence, the condition precedent for a "line of travel" to qualify as a "route" under the aforesaid definition is that the same must run through highway over which motor vehicle may traverse and must specify a starting point and a terminal point.

13. In the aforesaid cases, it is nobody's contention that the routes applied for do not conform to a line to travel through roads over which the motor vehicle may traverse. The termini of the proposed routes in both the applications are common to termini in already approved routes formulated by State Government u/s 68(3)(ca) of the Act.

14. Such fact has not been disputed by Mr. Sen, learned counsel appearing for the state-respondents.

15. It is, therefore, clear that the proposed routes in both the applications conform to the requirements of the definition of "route" u/s 2(38) of the Act. The issue as to whether an application for grant of stage carriage permit must relate

only to a formulated route u/s 68(3)(ca) of the Act is not only res integra. Barin Ghosh, J (as His Lordship then was) in W.P. No. 2667 of 1999 (Sri Panchanan Mondal vs. State of West Bengal & Ors.) inter alia, held that an application for stage carriage permit in respect of proposed route which originated and ended in termini which were common with termini in respect of already formulated routes u/s 68(3)(ca) of the Act is valid in law. Similar view was reiterated by Bhaskar Bhattacharya, J (as His Lordship then was) in W.P. No. 18468 (W) of 2003 (Pratip Bakshi vs. State of West Bengal).

16. Admittedly, in both the applications the proposed routes are originating and ending in terminals which are common with termini already approved/formulated routes. Hence, the applications cannot be said to be not maintainable in law and require to accepted and dealt with on merits.

17. Accordingly, the writ petitions are disposed of by giving liberty to the petitioner to deposit necessary fees in respect of the applications within seven days from date and in the event, such fees are deposited, the Secretary of the concerned Regional Transport Authority shall accept the same and the applications shall be considered in accordance with law after analyses of relevant facts applicable thereto and the decision be taken thereon within twelve weeks from the date of receipt of necessary fees. The decision so taken shall be communicated to the petitioner within two weeks thereafter.

18. Both the writ petitions are disposed of with the aforesaid directions.