

(2012) 10 CAL CK 0026

Calcutta High Court

Case No: Writ Petition No. 23075 (W) of 2012

Samir Kumar Roy

APPELLANT

Vs

The State of West Bengal and
Others

RESPONDENT

Date of Decision: Oct. 12, 2012

Acts Referred:

- Constitution of India, 1950 - Article 226
- Motor Vehicles Act, 1988 - Section 72

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: S.N. Mukherjee, for the Appellant; Bidhan Biswas for the State, for the Respondent

Final Decision: Allowed

Judgement

Hon'ble Mr. Justice Jayanta Kumar Biswas

1. The petitioner in this WP under art. 226 dated October 9, 2012 is questioning an order of the State Transport Authority, West Bengal dated November 9, 2011 (WP p.23). Relevant parts of the impugned order dated November 9, 2011 are quoted below:-

The matter is regarding allowing reserve vehicle under permit no. 40/05(I/R). After detailed discussion it was decided by STA that allowing reserve vehicle is not feasible as STA thinks that a vehicle costing to more than 10-12 lakhs would be used only as reserve one and there is every possibility that the vehicle would be used otherwise.

Therefore, STA decided to reject the application.

2. The petitioner is the holder of a permanent stage carriage permit for the route Jaigaon-Kolkata (CBT). He submitted an application dated May 18, 2010 (WP p.15) requesting the STA to permit him to keep a vehicle as reserve to maintain the

operation and to provide for special occasions. By the impugned order the STA has rejected his request.

3. The provisions of cl.(xvii) of sub-s.(2) of s. 72 of the Motor Vehicles Act, 1988 empower a Transport Authority to permit the holder of a stage carriage permit to keep vehicles as reserve to maintain the operation and to provide for special occasions. The petitioner's request has been rejected on the grounds that, if permitted, the vehicle kept as reserve will, in all probability, be used for other purposes.

4. While Mr. Mukherjee appearing for the petitioner and relying on a single Judge decision dated March 19, 2012 in a WP No. 5216(W) of 2012 (Sk. Wasim Reza v. The State of West Bengal & Ors.) has argued that the reasons citing which the request has been rejected are no valid reasons, Mr. Biswas appearing for the State has submitted that the petitioner has not shown any special reason why he should be permitted to keep the vehicle in question as reserve.

5. In my opinion, the STA was wrong in rejecting the petitioner's request on the grounds that, if permitted, the vehicle kept as reserve would, in all probability, be used for other purposes. The apprehension is baseless, and citing it the STA could not reject the request otherwise entertainable; for it was required to exercise its statutory power considering the past and present records, not a future possibility.

6. In para. 3 of the WP it has been stated that the distance of the route is 700 kms. This fact is not disputed. Permission, if given, is to be given for convenience of the passengers. It is not the case that the petitioner has been plying the vehicle covered by the permit held by him in contravention of the terms and conditions of the permit. I do not see any reason why the permission should be refused. For these reasons, I set aside the impugned order, allow the WP to this extent and direct the STA to grant the petitioner permission to keep the vehicle in question as reserve, within a fortnight from the date this order is served. No costs. Certified xerox.