(2012) 07 CAL CK 0045

Calcutta High Court

Case No: Writ Petition No. 14455 (W) of 2012

Bibekananda Das		APPELLANT
	Vs	
State of West Bengal and Others		RESPONDENT

Date of Decision: July 10, 2012

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2012) 07 CAL CK 0045

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Saktipada Jana, for the Appellant; Pantu Deb Roy and Mr. Jaladhi Das, 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 3, 2012 is questioning a decision of the Regional Transport Authority, Purba Medinipur dated March 13, 2012 (WP p.33). The decision dated March 13, 2012 of the RTA is quoted below:-

The matter is taken up & rejected observing Policy No. TS-96(2)/2011 Dtd. 27.1.2011 and corrigendum policy No. TS-126(2)/2011 Dtd. 28.1.2011 issued by Addl. Chief Secretary, Transport Department, Govt. of WB.

2. The petitioner is also questioning the two things described in the impugned decision as the Policy and the Corrigendum Policy. The thing described in the decision as the Policy is at p.34 of the WP, and the thing described as the Corrigendum Policy is at p.36 of the WP.

3. The thing at p.34 is a letter of the Additional Chief Secretary, Transport Department, Government of West Bengal dated January 27, 2011 to the Director, PVD & Chairman,

RTA, Kolkata and the District Magistrate & Chairman, RTA (All).

4. The thing at p.36 is a corrigendum letter of the Additional Chief Secretary, Transport Department, Government of West Bengal dated January 28, 2011 addressed to the authorities to whom he had written the letter dated January 27, 2011.

5. The letter and the corrigendum letter were written concerning registration of "TATA Magic, TATA Winger, FORCE Cruiser, FORCE Challenger, TATA Sumo, MAHINDRA Scorpio, MAHINDRA Thar, TATA, Venture, TATA Winger Platinum models of vehicles for commercial use."

6. The authorities to whom the letter and the corrigendum letter were written were requested to allow registration of the vehicles in the manner stated in the letter and the corrigendum letter.

7. The petitioner applied for grant of a permanent stage carriage permit. The RTA has rejected the application. It is evident from the decision that the RTA has rejected the application without stating the reasons and by simply referring to the letter and the corrigendum letter. This is an utterly arbitrary way of deciding an application for grant of a permit.

8. This is a classic example of a case of gross abuse of statutory powers by a Transport Authority under the Motor Vehicles Act, 1988. The RTA was under an obligation to give reasons. It could not reject the application for grant of a permit simply citing the numbers and dates of certain letters.

9. It is to be noted that by a decision dated June 26, 2012 in a WP No. 13022(W) of 2012 (Sukhendu Sau v. State of West Bengal & Ors.) the letter and the corrigendum letter, treating which as the Policy and the Corrigendum Policy the RTA rejected the petitioner''s application, were quashed on the grounds that the Additional Chief Secretary issuing them had no authority to issue them. For these reasons, I set aside the impugned decision, allow the WP to this extent and direct the RTA to decide the petitioner''s application afresh giving him hearing, within eight weeks from the date this order is served. No costs. Certified xerox.