

(1999) 10 CAL CK 0029

Calcutta High Court

Case No: Writ Petition No. 18482 (W) of 1997

Indra Nath Sen

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision: Oct. 8, 1999

Citation: (2001) 1 ILR (Cal) 37

Hon'ble Judges: Satyabrata Sinha, Acting C.J.; M.H.S. Ansari, J

Bench: Division Bench

Advocate: Arabinda Chatterjee, for the Appellant; Swatik Bhattacharya for private Respondent and Dilip De for state Respondent, for the Respondent

Final Decision: Dismissed

Judgement

Satyabrata Sinha, A.C.J.

1. This writ petition was referred to a division bench by a learned Single Judge of this Court in terms of an order dated September 18, 1997, inter alia, stating:

It appears after hearing of the parties that one of the pivotal points which permeates the range of the controversy in this writ petition, that is about the interpretation of the order passed by the Division

Bench dated 13.6.97 in F.M.A.T. 905 of 1997. In that view of the matter, as it relates to the interpretation of the order passed by the Division Bench about how consideration should be given to rotational time-table and the controversy can only be resolved by proper interpretation of the judgment and order passed by the Division Bench. Accordingly, in view of the fitness of thing, this Court feels that a request should be made before the Hon'ble the Chief Justice that the matter should be assigned to the division bench presided over by Bhagabati Prasad Banerjee, J.

2. Pursuant to that order, an assignment was made to a division bench presided over by Bhagabati Prasad Banerjee, J. However, as the matter was not heard by the said division bench and in the meantime the Hon'ble Mr. Justice Bhagabati Prasad

Banerjee, superannuated, this case has been re-assigned to this Bench.

3. The Petitioner is a holder of permanent permit for the route Burdwan to Borsul. A rotational time table was fixed in respect of 8 permit holders which is contained in Annex. "A" to the writ application. A division bench of this Court in F.M.A.T. 905 of 1997 by an order dated June 13, 1997, directed:

The only grievance of the appellant/Petitioners is that they were enjoying particular time table on the rational basis and the R.T.A. has given permission to the temporary permit holders of the other route to ply their vehicles on the basis of the approved time table without considering the applications for existing permit holder on the route Burdwan to Barsul;

It is well settled principle that while approving the time table of some permit holders, time table of other operators has to be considered. Accordingly, considering the facts and circumstances of the case we dispose of this application by directing the Regional Transport Authority concerned to fix up the time table of temporary permit holders of other route after giving an opportunity of hearing to the existing operators in the route or other routes and taking into consideration the rotational time table already fixed to the existing operators, i.e. the Petitioners herein, within four weeks from date;

It is made clear that if any further temporary permit is issued, the same should be granted after following the rotational time table already given.

4. In terms of the said order and upon hearing the Counsel for the parties and considering the written arguments submitted by them by a resolution adopted in a meeting held on July 22, 1997, the following time table was given in relation to the private Respondent herein by the Regional Transport Authority:

This has reference to the meeting held in the chamber of A.D.M. (L.R.) on 22.7.97 regarding the hearing of court matter and as per the request of A.D.M. (L.R.) and Secretary R.T.A. we are pleased to submit our suggested time table as follows:

<u>Bajketpur</u>	
5-08 (B)	4-20
6-00 (B)	6-00
6-08 (B)	6-10
7-53 (B)	7-55
13-59 (B)	13-15
15-47 (A)	15-05(D)
18-08 (B)	17-20
19-08 (B)	19-45
20-08 (B)	20-00
21-08 (B)	21-40

5. However, it appears from a letter dated July 23, 1997, issued by SK. Ali Nasser, Indranath Sen, Sri Gouri Shankar Banerjee. Sk. Sajed Ali and Tapan Kumar Bhandari that they had also suggested a rotational time table.

6. From the impugned order dated August 18, 1997, it appears, that there is a slight modification to the said suggested time table.

7. Mr. Chatterjee the learned Counsel appearing on behalf of the Petitioner submits that the order impugned in the writ application dated August 18, 1997, is not in consonance with the order passed by the division bench of this Court. When asked, Mr. Chatterjee, however, could not point out that there exists any provision in Motor Vehicles Act, 1988 for preparation of a rotational time table. In any event, it appears from the permits of the writ Petitioners that the same are not in respect of the same route, although rotational time table had been prepared only for the route Burdwan to Borsul.

8. Route means a line of travel which specifies the high-way which has to be traversed between two terminus and not in abstract time of travel. See [Mysore State Road Transport Corporation Vs. Mysore State Transport Appellate Tribunal,](#)

9. The permit granted in favour of the Appellant or the Petitioners is not being in respect of same route, the question of preparation of rotational time table did not arise. Furthermore, in the meantime the private Respondent admittedly been granted a permanent permit. It is accepted at the Bar that the provisional time table which was fixed by reason of the impugned order has been made applicable in respect of the permanent permit granted in favour of the private Respondent.

10. There cannot further be any doubt whatsoever that the Petitioner was given an opportunity of hearing and the time table suggested by them had been taken into consideration.

11. The judgment of the division bench never meant that the time table suggested by the Petitioner must be accepted. When a person is granted permanent or temporary permit, some adjustment in the time table is necessary. Nobody has a fundamental or a legal right to ply his vehicle on a particular route at a particular time. It is now a well settled principles of law that the jurisdiction of this Court is confined to the decision making process and not the merit of the decision itself. No illegality, irrationality or procedural impropriety having been shown to have been committed by the statutory authority in exercise of their statutory power, no case has been made out for interferring with the impugned order.

12. This application being devoid of any merit is accordingly dismissed but in the facts and circumstances of this case there will be no order as to costs.

M.H.S. Ansari, J.

13. I agree.