

(2014) 07 CAL CK 0074**Calcutta High Court****Case No:** W.P. 14053(W) of 2014

Anjan Kumar Mondal

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision: July 8, 2014**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 71(3)(a)

Hon'ble Judges: Joymalya Bagchi, J**Bench:** Single Bench**Advocate:** Dilip Kumar Samanta and Biswapriya Samanta, Advocate for the Appellant;
Sipra Majumdar and Chairul Alam, Advocate for the Respondent**Judgement**

@JUDGMENTTAG-ORDER

Joymalya Bagchi, J.

The writ petitioner is an existing stage carriage permit operator in respect of route "215" and "215/1". He is aggrieved by change of alignment of route 47, which is a notified route u/s 71(3)(a) of the Motor Vehicles Act, 1988.

2. Mr. Dilip Kumar Samanta, learned advocate appearing on behalf of the petitioner submitted that in view of the fact that the route is a notified route, curtailment or extension of the route was impermissible in law. More so, such curtailment/extension has been made on the recommendation of a Minister, which vitiates the decision of the respondent/Board. In support of such submission, Mr. Samanta relied on a decision of the Hon'ble Supreme Court in Pancham Chand and Others Vs. State of Himachal Pradesh and Others,

3. Mr. Chairul Alam, learned advocate appearing on behalf of the State respondents raised the issue of locus standi of the petitioner to maintain the writ petition. He submitted that in view of the law declared in Mithilesh Garg, Vs. Union of India and others etc. etc., and bearing in mind the liberalized policy envisaged under the present legislation, a rival operator and that too, who is plying vehicle in a different

route cannot maintain a challenge to a change of alignment of another route. He further submitted that there was no embargo in curtailment/extension of the route in question and that the decision had been validly modified in public interest and for the convenience of passengers.

4. In rebuttal, Mr. Samanta relied on a decision in Manik Lal Maji Vs. Union of India (UOI) and Others, and an unreported decision dated 18th June, 2014 in W.P. 3535(W) of 2014 in support of his contention that a permit holder plying vehicle in the area through which a notified route has been prescribed is entitled to challenge any variation of the notified route.

5. Bearing in mind the rival submissions of the parties, I am of the opinion that matter requires to be decided upon exchange of affidavits. The issue of maintainability of the petition is kept open.

6. Let affidavit-in-opposition be filed within a period of four weeks from date; reply thereto, if any, be filed two weeks thereafter and the matter shall appear for hearing six weeks hence.

7. With regard to the grant of interim order, bearing in mind public convenience, I am of the view that it would not be in interest of justice to pass an order of injunction on the impugned decision of the respondent authorities in the matter of change of alignment. The impugned action, however, would be subject to the result of the writ petition.