

S/L 27
12.12.2025
Court No.10
Swd

WPA 21986 of 2025

Abdul Fattar Koyal
Vs.
The State of West Bengal & Ors.

Mr. Sattwik Bhattacharyya,
Mr. Aashutosh Bhattacharyya,
Mr. Titas Niyogi,
Mr. Rohit Basak,
Ms. Reshma Sharma.

... for the Petitioner.

Mr. Pantu Deb Roy, Ld. AGP,
Mr. Goorav Das,
Ms. Barnali Gupta.

... for the State.

Mr. Sanat Kumar Roy,
Mr. B. Ghosh.

... for the Respondent No.4.

1. The learned Counsels for both the parties have been heard at length.
2. In the instant case, the petitioner is a transport operator of vehicle No.WB41F 4445 who has been granted one permit being No. P. St. P. 11/2013-14 on the inter-regional route from Memari to Fider Road via- Mosagram, Jamalpur, Surekalna, Dasghora (2 Up and 2 Down Trips), by the RTA Purba Bardhaman in the year 2013, and as per Resolution of the RTA Board Meeting dated 18.05.2017 the said route of the petitioner has been extended upto Tarakeshwar. The petitioner's said permit being No. P. St. P. 11/2013-14 was renewed lastly on 14.12.2023 for a further period till

11.12.2028 approved by the RTA, Purba Bardhaman, in favour of the petitioner.

3. Main grievance of the petitioner is that the permit of the private respondent was granted by State Regional Transport Authority for the route from Krishanagar to Tarakeswar via nabadwip, Dhatrigram, Samudragarh, Satgachia, Memari, Jamalpur, Dashghara. As per First Proviso to Section 69 of the Motor Vehicles Act, 1988, the Regional Transport Authority is the competent authority to issue any permit in respect of inter regions stage carriage permit attaching two or more districts, which is reproduced below:-

“Provided that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles:”

4. The learned Counsel for the private respondent submits that Section 68 of the said Act contemplates that both the

authorities are competent enough to consider the application for grant of permit for using the vehicle in two or more region lying in the same State.

5. The private petitioner relies upon Section 68 Sub-Section 3(b) which is reproduced below:

“to perform the duties of a Regional Transport Authority where there is no such Authority and, if it thinks fit or if so required by a Regional Transport Authority, to perform those duties in respect of any route common to two or more regions;”

6. In such context a gazetted notification dated 4th July, 2025 is relied upon by the private respondent which is reproduced below:

“After a careful examination of all related aspects, the Governor is hereby pleased to order that, henceforth, in partial modification of the earlier orders issued by the Transport Department, Government of West Bengal, applications for permits for issuance of all stage carriage vehicles, that would ply in three contiguous regions within the State, will be made to the RTA of the region in which the major portion of the proposed route alignment or area lies. In case the portion of the proposed route or area in each of the regions is approximately equal, application shall be made

to the Regional Transport Authority of the region in which it is proposed to ply the vehicle or vehicles. Application may also be made before the State Transport Authority, West Bengal for any route covering three districts or more.

It is also hereby ordered that the concerned State Transport Authority (STA) or Regional Transport Authority (RTA) shall issue, modify or renew a permit for the routes formulated by them and covering more than two districts. Where the stage carriage permit is issued by a Transport Authority, the time-table must be framed in consultation with the Regional Transport Authority under whose jurisdiction a part of the route lies.”

7. The State respondent submits that Regional Transport Authority and State Transport Authority are two independent authorities and the Regional Transport Authority has been empowered under the statute as per Section 69 to grant permit of a vehicle is proposed to be used in two or more regions lying within the same State.
8. The learned Counsel for the private respondent vehemently opposes such contention by placing reliance a reported Judgment of this Court in case of **Sanjit**

Chakraborty Vs. State of West Bengal & Ors. reported in **(2007) 3 CHN 859** the extract of the said decision is reproduced below:

“A perusal of the aforesaid Sub-section (3)(b) leaves no manner of doubt that the State Transport Authority has the jurisdiction to perform the duties of a Regional Transport Authority "if it thinks fit" or if so required by a Regional Transport Authority. The plain meaning of the aforesaid Sub-section appears to be that the State Transport Authority can perform the duties of the Regional Transport Authority:

(1) where there is no such authority.

(2) if it thinks fit to perform.

(3) if so required by a Regional Transport Authority.

6. The term "if it thinks fit" cannot be further circumscribed that there must be a request from the Regional Transport Authority before the State Transport Authority to exercise the power of Regional Transport Authority: It also cannot be limited to cases where there is no Regional Transport Authority. This view of ours will find support from the judgment of the Supreme Court in the State of Rajasthan v. Shri Noor Mohammad . In

this case the Supreme Court examined the scope of Sub-sections (3) and (4) of the Motor Vehicles Act, 1939 and clearly held as follows:

'7. It is clear from the above provisions that the State Transport Authority is a superior Authority with jurisdiction over the whole of the State while the Regional Transport Authority is subordinate to it with its jurisdiction generally confined to the region for which it is appointed. It is also clear from Sub-section (3) Clause (b) that the State Transport Authority can perform the duties and functions of the Regional Transport Authority under certain circumstances.

In our opinion, the view which found favour with the learned Judges with regard to the construction of Clause (b) is erroneous, and the State Transport Authority is entitled to perform the duties of the Regional Transport Authority (i) where there is no such authority; (ii) when the State Transport Authority thinks it fit to perform the duties of the Regional Transport Authority In respect of any route common to two or more regions or (iii) where the State Transport

Authority is required by the Regional Transport Authority to perform those duties in respect of any route common to two or more regions.”

9. The private petitioner further relies upon another Judgment of the Division Bench of this Court in the case of **Sekhar Chatterjee & Anr. Vs. Abdur Rahim Mondal & Ors.** reported in **(2008) 1 CHN 1096** paragraph 19 to 21 wherein it has been pleased to uphold the action of STA in entertaining the application for the grant of permit. Paragraphs 20 and 21 of the said judgment are reproduced below:

“20. For the foregoing reasons, we are of the view that the learned Single Judge was neither right in holding that the respondent Nos. 1 to 4 were entitled to move the writ petition nor was he correct in holding, without referring to the provisions of section 80 of the Motor Vehicles Act, 1988 and without dealing with the judgment of the Supreme Court passed in the case of Mithilesh Garg (supra) that the STA was not empowered to receive and consider the application of the appellants. In the facts and circumstances involved in this case, a mere passing reference to the judgment of the Apex Court without considering its effect.

21. We are therefore clearly of the view that the order of the learned Single Judge cannot be upheld as it is not correct. We accordingly set aside the judgment dated 14.5.2007 passed in W.P. No. 1395 of 2006 with GA No. 619 of 2007 and as a result, we upheld the action of the STA in entertaining the applications of the appellants submitted on 17.7.2006. We also uphold the resolutions adopted by the said STA granting permits to the appellants and as a result the writ petition, being W.P. No. 1395 of 2006 is dismissed.”

10. The Petitioner also relied upon another three Judge Bench judgment of the Hon'ble Apex Court in **State of Rajasthan & Ors. Vs. Shri Noor Mohammad** reported in **(1972) 2SCC 454** wherein it has been settled that the State Transport Authority is a superior Authority with jurisdiction over the whole of the State while the Regional Transport Authority is subordinate to it with its jurisdiction generally confined to the region for which it is appointed.

11. After Careful consideration of the matter, I direct the private respondent to serve a copy of the notification and the judgment relied upon the petitioner to consider the same and

make his appropriate submissions on the next returnable date.

12. Let the matter appear with WPA 22730 of 2025 on 16.12.2025 for analogous consideration.

(Smita Das De, J.)