

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2087 of 2015

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Rangraj Himanshu Shekhar, son of Kaushelendra Kumar, r/o village Ghoshi, P.S. Ghoshi Distt- Jehanabad.

.... Petitioner

Versus

1. The State of Bihar (through Secretary Transport Department)
2. South Bihar Regional Transport Authority, Patna Commissioner, Compound West Gandhi Maidan Patna,
3. Chairman, South Bihar Regional Transport Authority, Commissioner's Compound West Gandhi Maidan, Patna,
4. Secretary, South Bihar Regional Transport Authority , Patna Commissioners Compound West Gandhi Maidan Patna,
5. Motor Vehicle Inspector , Jehanabad.
6. Niraj Kumar, S/o Sri Priya Ranjan Kumar Pankaj, Resident of Village- Mohamdpur, P.S. Kako, District, Jehanabad

.... Respondents

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Appearance :

For the Petitioner : M/s. Shiopujan Singh,
Mukesh Kumar Singh, Advocates

For the respondent

Nos.1 to 4 : Dr. Punam Kumari Singh, Advocate

For respondent no.6 : Mr. Sunil Kumar Gupta, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 11-03-2015

As prayed, learned counsel for the petitioner is permitted to implead Niraj Kumar as respondent no.6 in course of the day as he has submitted that the order concerned has been passed at his instance but he has not been impleaded as a party.

I have heard the parties.

Two questions have been raised by the petitioner in this case. First is that impugned order dated 13.01.2015 as contained in



Annexure 3 has been passed by the Joint Commissioner-cum-Secretary, Regional Transport Authority, Patna who is not the competent authority to cancel the permit issued as the power to cancel the permit vests in the Transport Authority who had granted permit which would be apparent from Section 86 of the Motor Vehicles Act, 1988. Power to grant such permit vests in the Regional Transport Authority which would be apparent from Section 72 of the aforesaid Act. Second issue which has been raised by the petitioner is that permit has been cancelled without issuance of show cause notice.

A counter affidavit has been filed on behalf of the State stating that order has been passed in public interest so that illegal act of the petitioner is not perpetuated and that is in anticipation of approval of Regional Transport Authority which is to be held on 13.03.2015. Learned counsel admits that the actual power of cancellation of permit vests in Regional Transport Authority but she is not able to answer the query as to how and under what situation the Joint Commissioner could have passed the order even in anticipation of approval of Regional Transport Authority.

Such being the admitted position, in my considered opinion, the Joint Commissioner could have referred the matter to the Regional Transport Authority along with his comments but he could not have exercised such power and pass final order subject to

the approval and even without issuance of any show cause notice upon the petitioner.

Accordingly, the impugned order dated 13.01.2015, admittedly being passed by the authority which would be not the competent authority, is quashed and set aside. However, the competent authority concerned would be at liberty to take a fresh decision in this matter on its own merit and in accordance with law after granting reasonable opportunity to the petitioner. The respondent no.6 would also be at liberty to approach the concerned authority for the said purpose as earlier order was passed at his instance.

Accordingly, this writ application stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

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