

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15690 of 2015

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1. Sharwan Kumar Singh, Son of Late Uma Shankar Prasad, Resident of At and Post- Baruari, P.S- Gaighat, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Transport, Bisheswaraiya Bhawan, Baily Road, Patna.
2. Regional Transport Authority, Muzaffarpur, through Joint Transport Commissioner-cum-Secretary, Divisional Commissioner's Compound, Muzaffarpur.
3. Joint Transport Commissioner-cum-Secretary, Regional Transport Authority, Muzaffarpur, Divisional Commissioner's Compound, Muzaffarpur. null null
4. Additional Transport Commissioner, Department of Transport, Government of Bihar, Bisheswaraiya Bhawan, Baily Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey, Adv.

For the Respondent/s : Mr. S.K.Saraf, A.C. to GP-18

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 08-10-2015 Heard Mr. Randhir Singh, learned counsel for the petitioner and Mr. S.K. Saraf, A.C. to G.P. 18 for the State.

The petitioner is aggrieved by the decision of the Regional Transport Authority in the meeting held on 15.2.2014, 17.2.2014 and 19.2.2014 impugned at Annexure-2 whereby a decision has been taken by the Regional Transport Authority to stop plying of buses on the route running between the Bochaha Block up to Maithi More in the district of Muzaffarpur.

Indisputably the petitioner was holding permit to ply his bus in between the Damodarpur to Darbhanga via Muzaffarpur,

Bochaha Block Maithi More, Benibad to the extent of 4 trips per day. The permit is issued on 2.5.2012 and is valid up till 1.5.2017, a copy of which is placed at Annexure-1 to the writ petition. It is the specific case of the petitioner that there is no default on his part in ensuring compliance of the terms of contract.

Mr. Randhir Singh, learned counsel for the petitioner with reference to Annexure-2 submits that on a mere information given by the Additional Commissioner as regarding the condition of the road in between the Bochaha Block upto Maithi More that the Regional Transport Authority at Muzaffarpur without any notice and opportunity of hearing to the petitioner has unilaterally decided to cancel all the permits including that of the petitioner. Subsequently, vide order bearing memo No. 1271 dated 8.9.2014 the petitioner has been directed to stop the plying of buses under the orders of the Joint Commissioner-cum-Secretary, Regional Transport Authority, Muzaffarpur. The decision of the Regional Transport Authority is placed at Annexure-2 and the order of the Joint Commissioner is placed at Annexure-3 respectively.

Mr. Randhir Singh, learned counsel for the petitioner has referred to an unreported order passed by this Court in a similar matter arising from C.W.J.C.No.11320 of 1999 to submit that on a similar issue so raised on an earlier occasion that this Court has



held that the condition of a road cannot be a ground for cancellation of a permit. He submits that in the said case the renewal was withheld by the Transport authority and when a Bench of this Court while considering the matter in issue has held that the condition of road cannot be a ground for refusal of renewal of permit. He thus submits that in the present case the situation is even worse for the order has been passed behind the back of the petitioner and without opportunity of hearing to them. He submits that in view of the order passed by this Court in C.W.J.C.No.11320 of 1999 the matter requires a re-consideration by the Regional Transport Authority, Muzaffarpur.

A counter affidavit has been filed justifying the impugned action but does not explain as to why when the orders impugned was resulting in civil consequences, the affected party was not given opportunity. The order is apparently against the principles of natural justice and although the right of the petitioner was being curtailed but he has been denied opportunity of hearing.

For the reasons aforementioned, the decision of the Regional Transport Authority whereby restrictions have been issued as well as the order of the Joint Commissioner bearing Memo No.1271 dated 8.9.2014 present at Annexures-2 and 3 respectively cannot be upheld and are accordingly set aside. The

matter is remitted back to the Regional Transport Authority, Muzaffarpur for reconsideration of the matter and its disposal afresh but after opportunity of hearing to the petitioner in accordance with law.

The writ petition is allowed.

(Jyoti Saran, J)

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