

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No.641 of 2015**

M/s New Jeewan Bus Services, Through its Proprietor Akash Deep Singh S/o Shri Lakhwant Singh Gill, Aged about 24 years, R/o Near Bus Stand Pandri, Raipur, District Raipur (CG)

---- Petitioner

Versus

State Transport Authority, Raipur District Raipur (CG)

---- Respondent

Shri Ajay Shrivastava, Advocate for the petitioner.
Shri Sumit Jhawar, PL for the State/ respondent.

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**Order On Board****22.12.2015**

1. Heard.

2. Through the present writ petition, the petitioner has challenged the order dated 26.3.2015 passed by the State Transport Appellate Tribunal, Raipur (CG) whereby the appeal preferred by the petitioner against the order dated 13.12.2013 passed by the State Transport Authority, Raipur was dismissed.

3. The sole contention of the counsel for the petitioner through the present writ petition is that the said orders dated 13.12.2013 and 26.3.2015 passed by the authorities below are contrary to the provisions of Section 80 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988'). Counsel for the petitioner submits that as per proviso of the said Section, an opportunity of hearing before refusal of permit ought to have been granted to the petitioner on the point of rejection which in the instant case has not been complied. It is contended that rejection of permit by the authority concerned was on account of non compliance of the

condition stipulated under Section 128 of the Central Motor Vehicles Rules, 1989 (for short 'the Rules 1989') and as the vehicle in question is more than 2 years old, learned counsel further submitted that no such condition for furnishing of vehicle certificate as required is stipulated under Rule 128. Learned counsel further submits that in a similar Writ Petition (227) No.924 of 2015 (Sayyad Anwar Ali Vs. State Transport Authority), this Court vide order dated 6.11.2015 passed an order and further submitted that the present petition may also be disposed in the similar terms.

4. Learned counsel for the State has opposed the petition and submitted that the order of the appellate Court is well founded and the same may not require any interference.

5. Taking into consideration, the proviso to Section 80 of the Act of 1988 and the relevant facts of the case and also keeping in view the earlier order passed by this Court in Writ Petition (227) No. 924 of 2015, this Court is inclined to allow the present writ petition.

6. Accordingly, the present writ petition is allowed. The matter is remitted back to the State Transport Authority, Raipur (CG) for considering the application of the petitioner afresh after due compliance of the provisions as is required under Section 80 (2) of the Act of 1988.

7. Needless to mention that this Court has not expressed any opinion on the merits of the case and the authority concerned shall decide the application of the petitioner so far as the entitlement of the petitioner in granting permit is concerned strictly in accordance with the Act and Rules applicable.

8. No order as to cost.

**Sd/
(Chandra Bhushan Bajpai)
JUDGE**

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