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[ARISING OUT OF W.P. (C) NO. 943/2014]

APPLICATION FOR REVIEW OF THE ORDER DATED 01/07/2014
PASSED IN W.P. (C) NO. 942/2014 BEARING PARTIES "SANJAY
SINGH VS. STATE OF CHHATTISGARH AND ANOTHER"

HIGH COURT OF CHHATTISGARH : BILASPUR

Single Bench: Hon'ble Shri Manindra Mohan Shrivastava, J.

Review Petition No.125 of 2014

Applicants

State of Chhattisgarh and another

Versus

Non-applicant

Surendra Pal Singh

Present: - Shri R.K. Mishra, Dy. A.G. for the State / applicants.
Shri Uttam Pandey, counsel for the respondent / writ petitioner.

ORAL ORDER

(Passed on 19.01.2015)

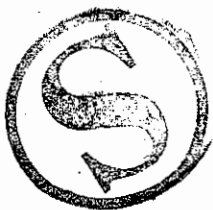
Heard.

1. Prayer for review and recall of order dated 01.07.2014 passed in W.P.(C) No. 943 of 2014 has been sought on the submission that during the pendency of the writ petition aforesaid, the RTA passed order on 12.06.2014 after affording the writ petitioner opportunity of hearing. The writ petitioner/ non-applicant, herein, had full notice and knowledge of notice given to him for appearing before RTA, during the pendency of the writ petition and also that on 17.06.2014, a fresh order has been passed by the RTA, this fact could not be brought to the notice of the Court when order dated 01.07.2014 was passed. Learned counsel for the State submits that as the RTA drew fresh proceedings during the pendency of the petition, in which, due opportunity of hearing was afforded to the petitioner, the writ petition itself was rendered infructuous.

2. On the other hand, learned counsel for the respondent submits that the RTA had already passed an order though without affording any opportunity of

hearing on 25.02.2014. This order was assailed by filing W.P.(C) No.943 of 2014. On 14.05.2014, the writ petition was listed for hearing and State counsel sought time to seek instructions as to whether the writ petitioner was afforded any opportunity of hearing, in terms of provisions contained in Section 80(2) of the Motor Vehicle Act, 1988 and the case was again directed to be listed thereafter. As the matter was pending before this Court, no order could be passed without the leave of the Court. Therefore, the prayer for review and recall of order dated 01.07.2014 is liable to be rejected.

3. The facts of the case floating on the surface are that the RTA passed an order on the application of the writ petitioner rejecting his application for grant of permit vide order dated 25.02.2014 which was assailed by filing a writ petition W.P.(C) No.943 of 2014. One of the foremost contention raised was that the order has been passed without issuing any notice and affording an opportunity of hearing in terms of provisions contained in Section 80(2) of the Motor Vehicle Act, 1988. This Court directed the State counsel, on 14.05.2014, to seek instructions as to whether opportunity of hearing was afforded or not. The order dated 25.02.2014 assailed in the writ petition, was not set aside but it was very much in existence. The RTA had no jurisdiction to start de-novo proceedings as, in the absence of there being any power of review, the RTA became functus officio after passing order dated 25.02.2014. Unless there was an order passed by the Appellate Court or by this Court, the RTA could not have initiated proceedings. For reasons best known to RTA, the direction of the Court issued on 14.05.2014 was treated as direction to afford fresh opportunity of hearing which was completely misconceived. Without seeking leave of this Court, the RTA could not have proceeded with the matter by initiating fresh proceedings



and again passing an order, this time affording an opportunity of hearing. The proceedings and orders are without jurisdiction and nonest. Review sought on the ground that during the pendency of the petition and order was passed, without the leave of the Court, cannot be allowed. The review petition is dismissed. The RTA shall draw fresh proceedings in the matter and after hearing opportunity of hearing shall pass fresh order in accordance with law as directed vide order dated 01.07.2014.

Sd/-
Manindra Mohan Shrivastava
Judge

Rekha