

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No.241 of 2015

Fatima Bi Wd/o Late Harun Solanki Aged About 40 years R/o Purana Ganj
Chowk, Rajnandgaon, Police Station Kotwali, Rajnandgaon, District
Rajnandgaon, (Chhattisgarh)

---- Petitioner

Versus

1. Regional Transport Authority, Raipur, District Raipur, (Chhattisgarh)
2. Hifajuddin Solanki S/o Late Kamruddin Solanki R/o Ganj Line, Rajnandgaon,
P.S. Kotwali, District Rajnandgaon, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Ajay Shrivastava, Advocate
For Respondent No.1	:	Shri Manish Nigam, Panel Lawyer
For Respondent No.2	:	Shri J. K. Gupta, Advocate

Order On Board

16/07/2015

None of the respondents, though granted time, filed reply.

2. Learned counsel for the petitioner submits that the issue involved in this petition has already been decided by this Court vide order dated 01-07-2014 in W.P.(C)No.943 of 2014, which has also been annexed as Annexure P-8.

3. Ground of challenge in this petition is that the order rejecting petitioner's application was passed without following the mandate of law as prescribed under Section 80(2) of the Motor Vehicle Act, 1988. Learned counsel for the petitioner submits that under the mandatory provisions, whatever may be the ground, before rejecting the application, a notice is required to be given and hearing to be provided before passing an order. This mandatory provision of affording an opportunity of hearing is violated. The appellate authority did not decide this issue, though petitioner specifically raised, as reflected from Annexure P-5, and passed the impugned order.

4. On the other hand, learned State counsel and learned counsel for respondent No.2 submits that the petitioner was seeking grant of stage carriage permit for operating vehicle on some other route which is not permissible. Therefore, even if no opportunity of hearing is afforded, the petitioner is not entitled to any relief.

5. Whatever may be the reason, if the law requires that opportunity of hearing is required to be afforded before rejecting application, it is obligatory on the part of the respondent No.1 to hear the petitioner and pass an order in accordance with law.

6. Therefore, on this short issue, the order of the Court below is set aside. The matter is remanded back to the respondent No.1, who shall afford opportunity of hearing to the petitioner as also to those, who have filed objections, then, pass the order in accordance with law preferably within a period of two months from the date of receipt of a copy of this order.

7. Accordingly, the petition is allowed.

Sd/-
Manindra Mohan Shrivastava
Judge