

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 203 of 2015

Mahendra Madhukar Lule S/o Madhukar Ramchandra Lule Aged About 55 Years
R/o. Ashirwad Complex, Vaidanath Chowk, Great Nag Road, Nagpur
(Maharashtra)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: The Chief Secretary, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, C.G.
2. State Transport Appellate Tribunal Chhattisgarh, Ghari Chowk, Raipur, C.G.
3. State Transport Authority Chhattisgarh, Indravati Bhawan, Mantralaya, Naya Raipur, District Raipur, C.G.
4. The Secretary State Transport Authority Chhattisgarh, Indravati Bhawan, Mantralaya, Naya Raipur, District Raipur, C.G.
5. Rais Ahmad (Wrongly Mentioned As Anis Ahmad) S/o Late Shri Hazi Hohd. Rafique Bus Operator, Purana Bus Stand, City Kotwali, Rajnandgaon, C.G.

---- Respondents

And

WP227 No. 304 Of 2015

Mahendra Madhukar Lule S/o Madhukar Ramchandra Lule Aged About 55 Years
R/o Ashirwad Complex, Vaidanath Chowk, Great Nag Road, Nagpur Maharashtra

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Chief Secretary Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. State Transport Appellate Tribunal Chhattisgarh Ghari Chowk, Raipur Chhattisgarh
3. State Transport Authority Chhattisgarh Indravati Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
4. The Secretary State Transport Authority Chhattisgarh Indravati Bhawan,

Mantralya, Naya Raipur District Raipur Chhattisgarh

5. Rais Ahmad S/o Late Shri Hazi Mohd. Rafique, Aged About 52 Years (Wrongly Mention As Anis Ahmad) Bus Operator, Purana Bus Stand, City Kotwali, Rajnandgaon Chhattisgarh

---- Respondents

And

WPC No. 728 Of 2015

Mahendra Madhukar Lule S/o Madhukar Ramchandra Lule Aged About 55 Years
R/o Ashirwad Complex, Vaidanath Chowk, Great Nag Road, Nagpur (Maharastra)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Chief Secretary, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, (Chhattisgarh)
2. State Transport Appellate Tribunal Chhattisgarh Ghari Chowk, Raipur, (Chhattisgarh)
3. State Transport Authority Chhattisgarh, Indravati Bhawan, Mantralaya, Naya Raipur, District Raipur (Chhattisgarh)
4. The Secretary, State Transport Authority Chhattisgarh, Indravati Bhawan, Mantralaya, Naya Raipur, District Raipur, (Chhattisgarh)
5. Rais Ahmad S/o Late Shri Hazi Mohd. Rafique Aged About 52 Years (Wrongly Mentioned As Anis Ahmad), Bus Operator, Purana Bus Stand, City Kotwali, Rajnandgaon, (Chhattisgarh)

---- Respondents

And

WPC No. 783 Of 2015

Mahendra Madhukar Lule S/o Madhukar Ramchandra Lule Aged About 55 Years
R/o Ashirwad Complex, Vaidanath Chowk, Great Nag Road, Nagpur Maharastra

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Chief Secretary, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh

2. State Transport Appellate Tribunal Chhattisgarh Ghadi Chowk, Raipur Chhattisgarh
3. State Transport Authority Chhattisgarh Indravati Bhawan, Mantralaya, Naya Raipur District Raipur Chhattisgarh
4. The Secretary State Transport Authority Chhattisgarh Indirawati Bhawan, Mantrilaya, Naya Raipur Dsitric Raipur Chhattisgarh
5. Rais Ahmed S/o Late Shri Hazi Mohd. Rafique, Aged About 52 Years (Wrongly Mentioned As Anis Ahmed, Bus Operator, Purana Bus Stand, City Kotwali, Rajnandgaon Chhattisgarh

---- Respondents

And

WPC No. 730 Of 2015

Mahendra Madhukar Lule S/o Madhukar Ramchandra Lule Aged About 55 Years
R/o Ashirwad Complex, Vaidanath Chowk, Great Nag Road, Nagpur (Maharastra)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Chief Secretary, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, (Chhattisgarh)
2. State Transport Appellate Tribunal Chhattisgarh Ghari Chowk, Raipur, (Chhattisgarh)
3. State Transport Authority Chhattisgarh, Indravati Bhawan, Mantralaya, Naya Raipur, District Raipur (Chhattisgarh)
4. The Secretary, State Transport Authority Chhattisgarh, Indravati Bhawan, Mantralaya, Naya Raipur, District Raipur, (Chhattisgarh)
5. Rais Ahmad S/o Late Shri Hazi Mohd. Rafique Aged About 52 Years (Wrongly Mentioned As Anis Ahmad), Bus Operator, Purana Bus Stand, City Kotwali, Rajnandgaon, (Chhattisgarh)

---- Respondents

And

WPC No. 729 Of 2015

Mahendra Madhukar Lule S/o Madhukar Ramchandra Lule, Aged About 55 Years
R/o Ashirwad Complex, Vaidanath Chowk, Great Nag Road, Nagpur (Maharastra)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Chief Secretary, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, (Chhattisgarh)
2. State Transport Appellate Tribunal Chhattisgarh Ghari Chowk, Raipur, (Chhattisgarh)
3. State Transport Authority Chhattisgarh, Indravati Bhawan, Mantralaya, Naya Raipur, District Raipur (Chhattisgarh)
4. The Secretary, State Transport Authority Chhattisgarh, Indravati Bhawan, Mantralaya, Naya Raipur, District Raipur, (Chhattisgarh)
5. Rais Ahmad S/o Late Shri Hazi Mohd. Rafique Aged About 52 Years (Wrongly Mentioned As Anis Ahmad), Bus Operator, Purana Bus Stand, City Kotwali, Rajnandgaon, (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Shailendra Bajpai, Advocate
For Respondents/State	:	Shri Satish Gupta, Govt. Advocate
For Respondent No.5	:	Shri Ajay Shrivastava, Advocate

S.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava

C A V Order

23/12/2015

1. In this batch of petitions, the petitioners who are public transport operators have assailed legality of the order passed by the State Transport Authority, Chhattisgarh (for short hereinafter referred to as "STA CG") in the respective cases by which the STA CG has refused to countersign inter-State route transport permit issued by the Transport Authority of State of Maharashtra. In all the petitions, the petitioners have challenged the order of refusal to countersign on similar facts and further, the order impugned in all the petitions is based on same reasoning and common grounds, involving consideration of legal and factual issues which are identical. This order shall govern disposal of all the writ petitions.

However, for ready reference to relevant facts which are similar in all the cases, the facts stated in Writ Petition (C) No.730/15 shall hereinafter be referred.

2. With an object to encourage and provide inter-State transport of passengers and goods between the State of Maharashtra and State of Chhattisgarh and to regulate, co-ordinate and control their operation, the State of Maharashtra and State of Chhattisgarh entered into a reciprocal transport agreement of the nature referred to in sub-section (5) of Section 88 of the Motor Vehicles Act, 1988 (hereinafter referred to as “MV Act”) on 22.1.2007 which agreement was duly notified by the Home Department of State of Maharashtra vide Notification (Annex.P-1) followed by respective separate Notifications of reciprocal transport agreement by the two States vide Annexure P-2 dated 8th June, 2007 and Annexure P-3 dated 2nd March, 2007. In these notifications, Annexure- “A” specified inter-State routes allotted to Maharashtra, whereas Annexure- “B” specified inter-State routes allotted to Chhattisgarh.
3. The petitioner in WPC No.730/15 applied for grant of inter-State route permit under reciprocal agreement (Annex.P-1) for the route Raipur to Chandrapur and back. State Transport Authority of State of Maharashtra granted 4 substantive stage carriages permit on both sides for two buses to the petitioner vide permit dated 31.12.2013 for a period from 23.12.2013 to 22.12.2018 (Annexure P-6). The petitioner, thereafter, approached STA CG for their countersignature by submitting an application on 6th January, 2014 vide Annexure P-7.
4. However, in view of discrepancy with regard to stations via which inter-State route from Raipur to Chandrapur and back was to be operated as contained in respective Notifications of the two States, the STA CG entered into correspondences with its counterpart in the State of Maharashtra vide communication dated 22.2.2014 (Annex. P-8) followed by another reminder dated 28.2.2014 highlighting that there is difference in the inter-State routes of Chhattisgarh from Chandrapur to Raipur as via stations have been differently indicated in the Notifications of the two States. While in the Notification, published by the State of Maharashtra, the inter-State route of Chandrapur to Raipur was prescribed via Mul, Nagbhir, Brahmapuri, Wadsa Kurkheda, MS-CG Border, Chouki, Dongargarh, Rajnandgaon, Durg , as per Chhattisgarh Notification, the said route was specified via- Mul, Brahmapuri (BRM) Gadchiroli, Chandgaon,

Sabargaon, Manpur, Mohala, Chouki, Dongargarh, Rajnandgaon, Durg. Request was, therefore, made to clarify the position so as to decide the pending issue.

The STA Maharashtra vide its letter dated 28.4.2014 (Annex. P-10) clarified by stating that as per Maharashtra State Gazette, the route Chandrapur to Raipur via specified destinations is 267 k.m. in Maharashtra State and 137 k.m. in Chhattisgarh State, whereas the distance of the aforesaid route in the respective State as per Chhattisgarh Notification, is 267 k.m. in Maharashtra but it is 180 k.m. in Chhattisgarh as against 137 k.m. specified in Maharashtra Notification in respect of the same route. It was also highlighted that the route specified in Maharashtra Notification was as per the reciprocal agreement which provides for shortest route and this difference and distance is required to be considered separately as per Clause I (j) of reciprocal transport agreement. Therefore, the steps towards that may be taken up. It requested the STA Chhattisgarh, Raipur to countersign the permit in favour of the petitioner.

5. However, STA CG vide order dated 21st May 2014 declined to countersign the permit granted to the petitioner by the State of Maharashtra on the ground that prescription of route in the permit is different from the route specified in the Notification issued by the State of Chhattisgarh vide Annexure P-3.

Aggrieved by the said order, the petitioner first filed writ petition before the Court which was, however, disposed off in view of alternative remedy of filing appeal before the State Transport Appellate Tribunal, Chhattisgarh (for short "the Tribunal"). Thereafter, the petitioner filed an appeal before the Tribunal, Raipur. The Tribunal, vide its order dated 22.10.2014 set aside the order of the STA, CG and remanded the matter for proper consideration in the light of reciprocal transport agreement between the two States. However, the STA, Chhattisgarh passed impugned order on 22.12.2014 rejecting the prayer for countersignature on considerations that as long as the route specified in the permit issued in favour of the petitioner is not in accordance with the route specified in the notification issued by the State of Chhattisgarh, it was not within the jurisdiction of the STA, Chhattisgarh to countersignature the permit. It is this order which is under challenge in this petition.

6. On identical considerations, the applications for countersignature in permits

issued by the State of Maharashtra in favour of other petitioners in connected writ petitions have been rejected stating that the route prescribed in the permit issued by the State of Maharashtra is not in accordance with the route specified in the Notification of State of Chhattisgarh.

7. On behalf of the petitioners a common argument was advanced by learned counsel for the petitioners in the batch of petitions. Learned counsel for the petitioners contended that as per the reciprocal transport agreement entered into between the two States and duly notified under the provisions of MV Act, inter-State route for such carriages means the routes connecting the main terminal points by shortest way on either sides of the border, unless otherwise mutually agreed upon in any particular case or cases. The route which is shortest has to be taken as the route for the purpose of granting inter-State permit and it is not open for any of the parties to prescribe a route which does not classify as the shortest route. Therefore, by necessary implication, any route which is longer, cannot be adhered to nor can be insisted upon much less a basis for refusal to countersignature. Under the reciprocal agreement, different routes have been allotted to the States and once the State to which routes have been allotted prescribes the via destinations between the two terminals, it is binding on the other State and consequently the transport authority of the State other than the State which issued permit, cannot refuse to countersign merely on the ground that due to discrepancy, some different via destinations have been specified in the Notifications of the State where countersignature is applied for. Learned counsel for the petitioners further contended that refusal on the part of STA, Chhattisgarh, Raipur is not only contrary to the spirit of the reciprocal agreement but also illegal as it is violative of the spirit of sub-section (5) of Section 88 of the MV Act. The next contention of learned counsel for the petitioners is that once reciprocal transport agreement is entered into, the States are distributed their respective routes in respect of which permits have to be granted by them and once permit is granted by one State authority, it has to be countersigned by the other State Authority and refusal cannot be based on any discrepancy because an issue of discrepancy has to be separately dealt with under Clause- I (j) of the reciprocal transport agreement. But that cannot be made a basis to refuse countersignature. The STA Chhattisgarh is bound by the reciprocal agreement duly notified and having statutory force under the law. The separate notification of

the State of Chhattisgarh being contrary to and violative of the principles of reciprocal transport agreement between the two States, the transport authority is required to follow the main reciprocal transport agreement published by the respective States.

8. On the other hand, learned counsel for the respondents submits that the petitions are liable to be dismissed on the ground that the petitioners have an alternative remedy of filing appeal before the Tribunal. He submits that order is an appealable one. Earlier also, when the STA, Chhattisgarh had passed an order on 21.5.2014, the petitioner filed writ petition challenging the said order but the petition was not entertained in view of existence of statutory alternative remedy and was disposed off with liberty to avail statutory remedy of appeal. Thereafter, the Tribunal passed an order on 22.10.2014 and remanded the matter to the STA Chhattisgarh. Now, as the STA, CG passed a fresh order on 22.14.2014, the petitioner again has a remedy of statutory appeal before the Tribunal and there are no extraordinary reasons why the petitioner should be allowed to bypass the remedy of appeal by again filing the petition before this Court. Therefore, it is contended, the petitions are liable to be dismissed on this count alone.

On merits, learned counsel for the State of Chhattisgarh submits that in the reciprocal transport agreement (Annex. P-1), it was neither expressly nor by implication, contemplated that the States will loose their authority to prescribe the destinations through which an inter-State route will pass within their respective territorial jurisdiction. It is argued that even though routes have been allotted to the two States under Annexure "A" & Annexure -"B" appended to the respective Notifications, the via destinations falling within the territory of the respective States have to be specified only by that particular State. The State of Maharashtra could not have specified via destinations within the territorial area of State of Chhattisgarh and that can be done only by the State of Chhattisgarh. There is no conflict in the reciprocal agreement (Annexure P-1) and the Notifications issued by the State of Chhattisgarh vide Annexure P-3. In reciprocal transport agreement at Sr. No.5 of Annexure "A", route prescribed from Chandrapur to Raipur is via Mul, BRM, Kurkheda. All these destinations fall within the territorial area of Maharashtra. However, this does not specify the via destinations in the State of Chhattisgarh because it could be prescribed only by

the State of Chhattisgarh. It has been done by the State of Chhattisgarh by specifying the route via destinations in the inter-State route falling within the territorial area of State of Chhattisgarh in connection with inter-State route between destinations Chandrapur to Raipur.

It is further argued that without any challenge to the Notification issued by the State of Chhattisgarh (Annexure P-3), the petitioner is not entitled to any relief of the nature sought by him because the STA, Chhattisgarh has no authority to countersign a permit which specifies via destinations on the inter-State route contrary to the via destinations and routes specified in the Notification of Chhattisgarh vide Annexure P-3. As long as Notification (Annex. P-3) stands and remains operative within the territorial area of Chhattisgarh, no permit can be countersigned which prescribes route via destinations other than those prescribed in statutory Notification of the State of Chhattisgarh.

9. I have considered the rival submissions made by learned counsel for the parties and perused the records.
10. The controversy in the present case revolves around on the issue as to whether the STA, Chhattisgarh has acted illegally and in violation of reciprocal transport agreement and statutory notification while refusing to countersign the permit issued in favour of the petitioner by the State of Maharashtra in respect of inter-State route Chandrapur to Raipur.
11. Before the merits of the order impugned are examined, I deem it necessary to deal with preliminary objection with regard to maintainability of the petition.
12. It is true that the petitioner has an alternative remedy of filing appeal against the impugned order dated 22.12.2014 passed by the STA CG. However, the background in which this petition came to be filed before this Court are extraordinary in nature. Earlier, when the petitioner had applied for countersignature, the STA, Chhattisgarh rejected the application vide order dated 21.5.2014 declining to countersign the permit. This was on the pretext that the route in respect of which permit has been granted by Maharashtra is different from the route mentioned in the Chhattisgarh Govt. gazette. This was the main operative reason for rejection of the application, in addition to other grounds

which related to conflict, inconvenience and likelihood of unhealthy competition amongst various operators plying on the same route. The petitioner had filed petition before this Court which was disposed off taking into consideration that the petitioner had an alternative statutory remedy. The petitioner then approached the Tribunal. The Tribunal vide its order dated 22.10.2014 set aside the order of STA CG and remanded the case for fresh consideration with observations. STA CG, however, again rejected the application on similar grounds that the route prescribed in the permit issued by the State of Maharashtra is at variance with the route statutorily prescribed in the Notification issued by the State of Chhattisgarh. Therefore, the petitioner is back to square one. The Tribunal has already expressed its view on the matter. It directed the STA CG to examine whether the permit granted to the petitioner is in accordance with reciprocal agreement and further to consider countersignature if it is found that the permit specifies the routes as per the reciprocal transport agreement between the two States. However, in the present case as the routes specified by State of Maharashtra and by State of Chhattisgarh vide their respective Notifications Annexure P-2 & Annexure P-3 in respect of inter-State routes between destinations Chandrapur & Raipur are differing, the transport authority has rejected application. In this background, no useful purpose would now be served in again relegating the petitioner to the Tribunal. Therefore, I am not inclined to throw the petition on the ground of alternative remedy, but to decide the matter on merits to do complete justice to the parties. Therefore, preliminary objection as to maintainability is rejected.

13. The reciprocal agreement entered into between the representatives of two States and notified by the Home Department of State of Maharashtra vide Annexure P-1 in Clause-I thereof provides for Stage Carriage Permits. Sub-clause (a) thereof provides that inter-State routes for stage carriages shall mean the routes connecting the main terminals points by shortest way on the either sides of the border unless otherwise mutually agreed upon in any case or cases.

Sub-clause (b) thereof provides that the stage carriages with number of trips and number of vehicles under operation shall be as per Annexure 'A' and 'B'.

Terms of sub-clause (a) referred to above clearly stipulates that inter-State routes shall be that which is the shortest way connecting the main terminal points

on either sides of the border. It is, however, open for the two States to mutually agree in any particular case or cases to provide any other routes between two terminal points, which by implication may not be the shortest one. However, unless otherwise so provided on mutual basis as per the reciprocal transport agreement, it is the shortest route which shall be taken as inter-State routes for all legal purposes.

14. The reciprocal transport agreement divides the inter-State routes between two State for the purpose of issuance of permits. Annexure "A" appended to the Notification specifies inter-State routes which have been allotted to Maharashtra whereas Annexure "B" specifies inter-State routes allotted to Chhattisgarh.

Inter-State route Chandrapur to Raipur has been allotted to Maharashtra. This is clear from item No.5 of Annexure "A". Thus, in respect of the route from Chandrapur to Raipur, the competent authority to issue inter-State permit for operation on this inter-State route would be the transport authority of the State of Maharashtra. Via destination as per item No.5 of Annexure "A" are Mul, BRM, Kurkheda. The distance in kilometer in Maharashtra has been specified as 267 k.m. whereas, in the State of Chhattisgarh, it has been specified as 137 km totaling 404 km. The map which has been placed on record as Annexure P-4 & P-5 are stated to be maps attached with respective Notifications of State of Maharashtra and State of Chhattisgarh respectively. In para 8.5 of the writ petition, averments to this effect has been made. This has not been specifically denied in the return of respondent. A comparison of two maps Annex P-4 & P-5 shows that the route prescribed and the via destinations, are different in the respective notifications of the two States, Annexure P-2 & Annexure P-3 respectively.

15. In the route in item No.5 of Annexure "A" of the reciprocal transport agreement (Annexure P-1), the via destinations points are only those which are situated within the territorial area of Maharashtra. Beyond the territorial area of the Maharashtra, what would be the via destinations has not been specified in the reciprocal agreement (Annex. P-1). This is for obvious reason because the via destinations within the territory of Chhattisgarh could be prescribed only by the State of Chhattisgarh. Conversely, the via destinations on an inter-State route falling within the territorial area of State of Maharashtra could be prescribed only

by the State of Maharashtra and not by the authority of State of Chhattisgarh. It was consistent with the statutory scheme that while entering into reciprocal agreement and allotting inter-State routes to each other, the two States did not specify via destinations falling in the territorial area of other State. Therefore, even though inter-State route allotted to Maharashtra at Sr. No.5 of Annexure "A" included the route Chandrapur to Raipur, via destinations falling within the territorial area of Maharashtra namely Mul, BRM, Kurkheda alone has been specified. What would be the via destinations of the inter-State route up to Raipur in State of Chhattisgarh have not been specified in item No.5 of Annexure "A" and it has been left for the State of Chhattisgarh alone to specify via destinations in territorial area of Chhattisgarh.

16. Notification (Annex. P-2) which was issued by the State of Maharashtra also prescribes the same via destination i.e. Mul, BRM and Kurkheda which fall within the territorial area of Maharashtra.

In the notification (Annexure P-3) issued by the State of Chhattisgarh, it specified via destination on the inter-State route Chandrapur to Raipur not only falling within the territorial area of Chhattisgarh but also of Maharashtra. This notification of the State of Chhattisgarh, to some extent, is inconsistent with the reciprocal agreement (Annex P-1) inasmuch as in the reciprocal transport agreement, via destinations in Maharashtra are specified as Mul, BRM, and then Kurkheda. No other destinations of Maharashtra is specified in the reciprocal agreement. Neither any pleading nor any specification in various maps placed on record by respective parties show whether Sabargaon falls within the territorial area of Maharashtra or Chhattisgarh. Map filed by both the parties, however, show that Chandgaon and Gadchiroli were within the territorial area of Maharashtra. Manpur, Mohala, Chouki, Dongargarh, Rajnandgaon and Durg fall within the territorial area of Chhattisgarh. Moreover, distance specified at Sr. No.5 of Annexure "A" of reciprocal agreement is 267 km in Maharashtra and 137 k.m. in Chhattisgarh, whereas in the Notification of State of Chhattisgarh, while the distance within the State of Maharashtra has been prescribed as 267 k.m. distance in the State of Chhattisgarh has been specified as 180 km. which is more than the distance of 137 k.m. prescribed in reciprocal transport agreement. That is the reason why total distance covered between Chandrapur to

Raipur as specified in reciprocal transport agreement is 404 k.m. whereas, what has been prescribed in the Notification (Annexure P-3) of State of Chhattisgarh is 447 k.m. It is thus clearly discernible that while issuing Notification vide Annexure P-3, a discrepancy has crept in as it is in variance with the specifications contained in Annexure- "A" of inter-State reciprocal agreement (Annex. P-1) in respect of inter-State route at Sr. No.5 Chandrapur to Raipur.

17. Though it was within the province of authority of State of Chhattisgarh to prescribe via destinations falling within the territory of Chhattisgarh, while doing so, it was obliged to act in consonance with sub-clause (a) of Clause-I of the inter-State reciprocal transport agreement (Annex. P-1) which provides that the inter-State routes shall mean the routes connecting the main terminal points by shortest way on the either sides of border. As against the specified 137 k.m. of route in the State of Chhattisgarh under reciprocal agreement (Annex. P-1), the notification (Annex. P-3) of the State of Chhattisgarh has specified the inter-State route distance falling in territorial area of Chhattisgarh as 180 k.m. This is at variance with the details and prescription in reciprocal transport agreement (Annex. P1). There is neither any pleading nor any material on record to show that two States have mutually agreed upon any other route which is longer than 137 k.m.

18. In the Notification (Annex.P-2) issued by the State of Maharashtra, via destinations, the inter-State route distance in Maharashtra and Chhattisgarh are in accordance with reciprocal agreement (Annex. P-1) and via destinations prescribed in Annexure "A" of Notification (Annex. P-2) of State of Maharashtra is limited to destination within the territorial area of Maharashtra.

19. Thus, conjoint reading of reciprocal agreement (Annex. P-1) and respective Notifications of two States (Annex. P-2 & P-3) would show that in the Notification issued by the State of Chhattisgarh in respect of inter-State route Chandrapur to Raipur, there has crept in discrepancy in the specifications both destinations-wise as well as distance-wise between specifications of reciprocal agreement (Annex. P-1) and State Notification (Annex. P-3).

20. The discussion on factual aspect herein above makes it clear that two States did

enter into correspondences having identified the aforesaid discrepancy, but no decision has been taken on any mutual basis between two States as per the terms of Clause- I (j) of reciprocal agreement (Annex. P-1) till date. This could be sorted out between the two States by carrying out appropriate correction in the respective State notifications to bring them in tune with prescription and specifications in the reciprocal agreement (Annex. P-1).

21. In the absence of any decision taken on merits on mutual basis between two States, as contemplated in Clause I (j) of reciprocal agreement, the position which stands as on today is that there is discrepancy in the two Notifications (Annex. P-2 & P-3) issued by the respective States and the Notification of State of Chhattisgarh in respect of inter-State route Chandrapur to Raipur is not strictly in accordance with but at variance with specifications contained in respect of the same route as per inter-State agreement (Annex. P-1).

22. The competent authority while issuing permit in favour of the petitioner, prescribed a route which, though, is in accordance with the specifications of Maharashtra Notification i.e. Annexure P-2, but at variance with the specifications of via destinations as contained in Chhattisgarh Notification (Annex. P-3). It is because of this discrepancy that STA of Chhattisgarh finds it unable to countersign the permit because on the face of it, the permit specifies the route via destination falling within area of Chhattisgarh which is not as per notification of Chhattisgarh. In fact, a close look of the permit issued in favour of the petitioner would show that via destinations in State of Chhattisgarh do not include Manpur and Mohla and include Bhilai. In the notification Annex. P-3, Manpur and Mohla are the via destination prescribed whereas Bhilai is not prescribed as one of the via destination. The discrepancy is also because of prescription of via destination located in the territorial area of Maharashtra, but specified in the Notification (Annex. P-3) issued by the State of Chhattisgarh.

23. The root cause of the dispute, therefore, appears to be defective Notification issued by the State of Chhattisgarh, at the same time the permit issued in favour of the petitioner is also in violation of the Notification, Annex. P-3, issued by the State of Chhattisgarh. Therefore, as far as the STA CG is concerned, it had no

option but to refuse to the countersign because it cannot violate the routes prescribed in the statutory Notification of the State of Chhattisgarh. It is different matter that the statutory Notification of State of Chhattisgarh is not strictly in accordance with the reciprocal agreement.

In any case, as long as statutory Notification, Annex.P-3, stands & operative in law, any permit which specifies destinations on inter-State routes, contrary to specifications of the statutory Notification, cannot be countersigned.

24. Though this Court has found that the Notification issued by State of Chhattisgarh suffers from certain discrepancy and two States could take recourse to discrepancy removal mechanism provided in Clause- I (j) of the reciprocal transport agreement, Annex. P-1, nothing having been done in that direction, no mandamus can be issued to State Transport Authority of Chhattisgarh to countersign the permit issued in favour of the petitioner because that would amount to issuing direction contrary to law. A direction to countersignature the permit which specifies via destinations contrary to and at variance with via destinations specification in Notification, Annex.P-3, cannot be issued.

25. As the petitioner has chosen not to challenge legality and validity of statutory Notification, Annex.P-3, issued by the State of Chhattisgarh, the petitioner cannot be granted any relief as prayed for in this petition.

26. As far as other connected writ petitions WPC No.203/15 & WPC (227) No.304/15 are concerned, they also related to route Chandrapur to Raipur.

The other petitions WPC No 783/15, WPC No. 729/15 and WPC 728/15 related to route Chandrapur to Rajnandgaon. It is not necessary to specifically deal with similar discrepancy in all these cases, but suffice to say that because of similar discrepancy with regard to via destinations as contained in the permit and in the Notification issued by State of Chhattisgarh in respect of the route Chandrapur to Rajnandgaon, State Transport Authority of Chhattisgarh has refused to countersignature.

27. It would, however, be open for the two States to remove discrepancy by taking

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recourse to discrepancy removal mechanism provided in Clause I (j) of the reciprocal transport agreement (Annex. P-1)

28. In the result, all the petitions are dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen