

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8227 of 2016

=====

M/s Anand Travels through its Managing Partner Namely Anand Kumar Singh Son of Late Suresh Kumar Singh resident of Kolhua Dadar, P.S. Ahiyapur, District - Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Transport, Government of Bihar, Patna
2. Regional Transport Authority, Muzaffarpur through the Joint Commissioner Cum Secretary, office Situated at Divisional Commissioner's Compound, Muzaffarpur

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 8195 of 2016

=====

M/s Anand Travels Through Its Managing Partner Namely Anand Kumar Singh, Son of Late Suresh Kumar Singh, Resident of Kolhua Dadar, P.S- Ahiyapur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Transport, Government of Bihar, Patna.
2. Regional Transport Authority, Muzaffarpur through the Joint Commissioner cum Secretary, office situated at Divisional Commissioner's Compound, Muzaffarpur

.... Respondent/s

with

=====

Civil Writ Jurisdiction Case No. 8354 of 2016

=====

M/s Anand Travels through its Managing Partner Namely Anand Kumar Singh Son of Late Suresh Kumar Singh Resident of Kolhua Dadar, P.S.- Ahiyapur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Transport, Government of Bihar, Patna.
2. Regional Transport Authority, Muzaffarpur through the Joint Commissioner cum Secretary, Office Situated at Divisional Commissioner's Compound, Muzaffarpur.

.... Respondent/s

=====

Appearance:

(In CWJC No.8227 of 2016)

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

For the Respondent/s : Mr. MANISH KUMAR, GP-8

(In CWJC No.8195 of 2016)

For the Petitioner/s : Mr. Sanjay Kumar Pandey, Advocate
For the Respondent/s : Mr. DHURJATI KR. PRASAD, GP-7
(In CWJC No.8354 of 2016)
For the Petitioner/s : Mr. Sanjay Kumar Pandey
For the Respondent/s : Mr. PRASHANT PRATAP, GP-6

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 14-07-2016

=====

Heard Mr. Randhir Kumar Singh, learned counsel appearing for the petitioner in the three writ petitions, Mr. Manish Kumar, learned Government Pleader-8 in CWJC No. 8227 of 2016, Mr. Subodh Kumar Mishra, Assisting Counsel to Government Pleader-7 in CWJC No. 8195 of 2016 and Mr. Gyan Shankar, Assisting Counsel to Government Pleader-6 in CWJC No. 8354 of 2016.

The petitioner is common in the three writ petitions and is aggrieved by the resolution of the Regional Transport Authority, Muzaffarpur (hereinafter referred to as the 'RTA') dated 23.12.2015 insofar as a decision is taken by the 'RTA' to vary the stage carriage permits granted to the permit holders under Section 72 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') and the Rules framed thereunder so as to restrict them to two trips (up and down), which decision rests on an earlier resolution dated 10.12.2014 of the 'RTA'. Copies of the resolution dated 23.12.2015 of the Regional Transport Authority, Muzaffarpur as well as the proceedings of the meeting dated 10.12.2014 are placed on record at Annexure-3 and 4 to

CWJC No. 8227 of 2016 and since these two resolutions are put to challenge in the other two writ petitions as well, hence, I would be referring to the pleadings made in CWJC No. 8227 of 2016 unless clarified by specific reference to the other two writ petitions.

Facts of the case lie in a very narrow compass. The petitioner has been granted three stage carriage permit under Section 72 of 'the Act'. CWJC No. 8227 of 2016 is relatable to a Stage Carriage Permit granted to the petitioner in respect of vehicle bearing registration no. BR-06P-4241 (Model 2007) for Muzaffarpur-Sitamarhi route via Zeromile, Sahbajpur, Dronepur, Jhapha, Runnisaidpur, Belsand and Parsauni for three trips (up and down) which was valid for a period 31.10.2011 to 30.11.2016.

CWJC No. 8195 of 2016 is in connection with variation in a similar permit granted to vehicle bearing Registration No. BR-06P-4239 having its date of manufacture in 2007 for the route Muzaffarpur to Sitamarhi via Zeromile, Jhapha, Khanuaghat Runnisaidpur, Garha, Mane Chowk, Bocha and Dumra for four trips (up and down). The said permit was valid from 04.2.2011 to 03.2.2016.

The third writ petition bearing CWJC No. 8354 of 2016 raises similar issue in relation to vehicle bearing Registration No. BR-06P-8039 having its date of manufacture in 2009 and was granted permit for Muzaffarpur-Sitamarhi route via New Zeromile,

Sahbazpur, Dronepur, Jhapha, Runnisaidpur, Garha, Bocha Chowk, Dumra Chowk, Sitamarhi for three trips (up and down) which is valid for the period 29.8.2012 to 28.8.2017.

Each of the three permits have been enclosed at Annexure-1 to the respective writ petition(s).

The petitioner filed his application for renewal and which has been considered by the Regional Transport Authority, Muzaffarpur along with the application of several other permit holders and although renewal has been granted in each of the three cases but the trips have been brought down to two trips (up and down) in each of the permits granted in curtailment of the original permits vide resolution dated 23.12.2015 impugned at Annexure-3 which resolution is resting on an earlier resolution dated 10.12.2014 impugned at Annexure-4. The petitioner is aggrieved by the two resolutions which according to the petitioner is founded on a non-issue and the action taken is in conflict with the provisions underlying Rule 80 of the Bihar Motor Vehicles Rules, 1992 (hereinafter referred to as 'the Rules') framed under 'the Act'.

I have heard Mr. Randhir Singh, learned counsel for the petitioner in each of the writ petitions and learned State counsel appearing for the respondents in the respective writ petitions. The argument advanced is rather brief and stands noted in the order dated 24.6.2016. Mr. Randhir Singh while referring to a decision of the



State Transport Authority dated 07.3.2013 present at Annexure-5 submits that even though the State Transport Authority has determined the distance coverage of a Stage Carriage in reference to its date of manufacture and according where to, the vehicle(s) in question fall well within the prescription, yet the Regional Transport Authority, Muzaffarpur in complete ignorance of such resolution, has curtailed the trips and the reason assigned is, unsustainable. He next refers to the Rule 80 of the 'the Rules' to submit that even the statutory obligations requiring a notice, has not been followed nor the impugned decision is resting on any decision of the State Transport Authority.

It is in consideration of the issue raised that this Court directed the authorities to address themselves and respond vide order of this Court dated 24.6.2016 and following which a supplementary counter affidavit has been filed under the signature of the Deputy Director, Food (Joint Secretary) who also holds additional charge of the Regional Transport Authority at Muzaffarpur. Separate counter affidavits have been filed in each of the cases but since the resolution under challenge and the stand of the respondents is common hence as I have already observed, I would be referring to the stand taken in the counter affidavit and supplementary counter affidavit filed in CWJC No. 8227 of 2016.

The respondents at paragraph-4 of the counter affidavit



has referred to Section 72(2) (xxii) (a), Section 74(2) (ix) (a) & (b) and Rule 76 (1) and (6) of 'the Rules' to support the impugned action. In response to the resolution of the State Transport Authority dated 07.3.2013, it is submitted that since the resolution of the State Transport Authority is silent on curtailment of trips hence it would not provide any relief to the petitioner. Following the order passed on 24.6.2016, that a supplementary counter affidavit is filed and in my opinion the stand taken by the respondents in paragraph-4 of the supplementary counter affidavit is itself sufficient to allow the writ petition for whereas Section 72 (2) (xxii)(a) relating to Stage Carriages and 74(2) (ix) (a) & (b) relating to Contract Carriages enables the Regional Transport Authority to make alterations in the permit but the power is not blanket rather it also accompanies a statutory duty of issuance of notice to the permit holder at least a month in advance and the extent of variation also stands discussed in the proviso to sub rule (xxii). Indisputably these mandatory stipulations are not satisfied.

In fact the explanation given by the respondents to the argument advanced by Mr. Singh in reference to Rule 80 that it only applies to existing permit and is not applicable in case of new permit or for renewal of a permit, in effect supports the case of the petitioner because a variation is only made in existing permits which are put forward for renewal and not at the stage of grant of new permits.



Rule 80 is an enabling provision vesting right in the permit holder to seek variation in permits and alongside also enables the R.T.A. to do so. The language of the provision is self eloquent and cannot be a subject of interpretation. The statutory provision while enabling the Regional Transport Authority to vary the condition of permit also accompanies certain preconditions to such exercise and which is provided in sub-rule 2 thereof which mandates that where such variation rests on a resolution of the State Transport Authority then there need not be any hearing given to the permit holder but where it is a decision of the Regional Transport Authority then a notice has to be given to the permit holder a month in advance by publication of such resolution in the official gazette and only on expiry of a month of such publication that a variation shall be held valid.

Reverting to the resolutions in question while the resolution dated 23.12.2015 impugned at Annexure-3 rests on an earlier resolution dated 10.12.2014 present at Annexure-4, a perusal of the said resolution dated 10.12.2014 shows that a decision is taken for curtailing the trips keeping in mind the traffic load on the routes in question. There is however nothing in the counter affidavit which would demonstrate that the condition of Muzaffarpur-Sitamarhi route has deteriorated to such an extent where it has left no option for the Regional Transport Authority, Muzaffarpur but to curtail trips of the

stage carriage permits. In my opinion, a unilateral decision has been taken by the Regional Transport Authority in its resolution dated 10.12.2014 and even if there existed reasons for coming to such conclusion but it could not have been taken by overreaching the statutory obligations which is completely missing in the present case. Since the foundation for the impugned resolution dated 23.12.2015 itself has been found wanting on statutory prescriptions, the consequences resulting are naturally illegal.

For the reasons discussed and considering that the resolutions dated 23.12.2015 together with the resolution dated 10.12.2014 insofar as it curtails the trips allowed to stage carriage permits, has been taken in violation of the statutory provisions underlying Sections 72(2) (xxii) (a) and Rule 80 of the Rules, the resolutions have to be struck down and are accordingly quashed and set aside.

The writ petitions are allowed. The consequences shall follow.

(Jyoti Saran, J)

S.Sb/-

AFR	
CAV DATE	
Uploading Date	19-07-2016
Transmission Date	