

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13922 of 2016

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Rajesh Kumar Agrawal S/o Shri Radha Raman Agrawal, Proprietor of Vishwakarma Service (Fitness Testing Cenrore) At & P.O. NH 31, Paparaur, Begusarai, District - Begusarai

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary to the Govt. Department of Transport, Patna
2. The Principal Secretary, Department of Transport, Govt. of Bihar, Patna
3. The State Transport Commissioner, Govt. of Bihar, Patna
4. The Joint Secretary, Department of Transport, Govt. of Bihar, Patna
5. The Regional Transport Authority, Munger

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Priyank Deepak
Mr. Rajendra Kumar Giri
For the State : Mr. Ajay Kr. Rastogi- AAG-10

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 24-10-2016 Heard learned counsel for the petitioner and learned Additional Advocate General No. 10 for the State.

The petitioner seeks quashing of the order dated 13.4.2016 passed by the Principal Secretary, Department of Transport, Government of Bihar by which he has annulled the letter No. 4296 dated 31.8.2015 issued by the State Transport Commissioner for the renewal of Fitness Testing Centre License No. 01/2009 of the petitioner and for other consequential orders.

The short facts of the case are that the petitioner was granted Letter of Authority for running a Fitness Testing Center in terms of the provisions of the Motor Vehicles Act read



with Rule 63 of the Central Motor Vehicles Rules for the period from 31.12.2009 to 30.12.2014 by the Regional Transport Authority, Munger. While the matter of renewal of the licence after 31.12.2014 remained pending, the petitioner continued to run his Center and approached the State Transport Commissioner stating that the Regional Transport Authority, Munger has not yet renewed his Letter of Authority. The State Transport Commissioner by his letter No. 4296 dated 31.8.2015 directed the Joint Commissioner-cum-Secretary, Regional Transport Authority, Munger that the case of the petitioner was not covered by the Departmental Notification No. 730 dated 6.2.2015 and therefore directed him to expeditiously renew the Letter of Authority of the petitioner and intimate the Department. The Letter of Authority was accordingly renewed on 1.9.2015.

A large number of persons who were running Fitness Testing Centers including the present petitioner, who was petitioner no. 3, filed CWJC No. 3963/2015 for a direction on the respondent-authorities for renewal of their Letter of Authority for running the Fitness Testing Center. However, when the matter was taken up on 17.12.2015 since the present petitioner, who was petitioner no. 3, had already been given the benefit of renewal, on the prayer of learned counsel for the



petitioners the liberty was granted to them except petitioner no. 3, i.e., the present petitioner to approach the Principal Secretary, Department of Transport, Government of Bihar for redressal of their grievances and the same was to be considered on its own merits in accordance with law. The representations of the said petitioners were considered by the Principal Secretary (In-charge) Transport Department and by order dated 13.4.2016 it was held that the letter No. 4296 dated 31.8.2015 issued by the State Transport Commissioner was contrary to the Departmental Notification No. 730 dated 6.2.2015 as it was clearly provided in the said Departmental Letter that even in the case of such Fitness Testing Centers of which the applications for renewal are pending, their Letters of Authority were not to be renewed. For the said reasons, the said letter dated 31.8.2015 of the State Transport Commissioner was set aside and the representations were accordingly rejected. Pursuant to the same the State Transport Commissioner by his letter dated 6.6.2016 has written to the Joint Commissioner-cum-Secretary, Regional Transport Authority, Munger to act in terms of the order of the Principal Secretary with regard to the Fitness Testing Center of the petitioner. It is stated by learned counsel for the petitioner that the Fitness Testing Center of the petitioner has been stopped



from running after 31.7.2016. Aggrieved by the same the petitioner has come to this Court.

Learned counsel for the petitioner submits that the order of the Principal Secretary is contrary to the direction of this Court which had directed that the matter of the other 25 writ petitioners except the present petitioner in CWJC No. 3960/2015 was to be considered upon their representation and thus, there was no occasion for the Principal Secretary to have set aside the letter dated 31.8.2015 affecting the case of the petitioner.

It is further submitted by learned counsel that the Departmental Notification dated 6.2.2015 itself states that it would be effective from the date of its issue and thus it could not have covered the case of the petitioner for which the application for renewal had been filed on 29.11.2014 and the Letter of Authority had to be renewed with effect from 31.12.2014 and it was only on account of the laches of the respondent-authority that the renewal could not be made prior to issuance of the letter dated 6.2.2015 and therefore, it was not open to the authorities to take advantage of their own wrong and deprive the petitioner of the benefit of the Letter of Authority which has rightly been issued subsequently on the basis of the letter dated 31.8.2015 of the State Transport Commissioner.



On the other hand, learned Additional Advocate General submits that the letter dated 6.2.2015, which is a policy decision of the State Government issued by order of the Governor of Bihar, was very clear in the matter that the system of having private Fitness Testing Center authorized for testing was to be brought to an end and pursuant to the said policy decision it was directed that no further Letter of Authority was to be issued for setting up of such new private testing centers and further with respect to such testing centers which had been running from before the Letter of Authority was not to be renewed. The most important aspect of the matter was that it was clearly provided therein that in no such matter where the application for renewal was pending the renewal was to be given. It is thus submitted that the prospectivity of the order would cover all such cases in which the final decision for renewal had not been taken before 6.2.2015.

Having considered the submissions of learned counsels for the parties, this Court finds the order dated 13.4.2016 passed by the Principal Secretary, Transport Department as unassailable. It is clear from the notification dated 6.2.2015 that a policy decision has been taken not to issue Letter of Authority to any private Testing Center. However, it



was decided that those centers which were in operation pursuant to the Letter of Authority issued earlier would be allowed to continue to run until the expiry of the period of the said Letter of Authority. The other directions contained in the said notification were merely in pursuance of the said policy decision which provided that there would be no further renewal of the Letter of Authority to any such private testing centers and moreover in case where the application for renewal was pending, the same would also come within the ambit of the notification and the renewal was not to be granted.

This Court fails to understand how in the face of such clear provision in the notification dated 6.2.2015, which represented a policy decision of the Government in the matter, the State Transport Commissioner could have issued the letter dated 31.8.2015 stating that the case of the petitioner was not covered by the Departmental Notification dated 6.2.2015.

In the said circumstances, the decision of the Principal Secretary setting aside the said letter dated 31.8.2015 is unexceptionable and clearly in accord with the policy decision contained in the notification dated 6.2.2015.

The only submission of learned counsel for the petitioner to be considered would be as to whether it is a case in



which it can be said that the departmental authorities are taking advantage of their own laches for denying the benefit of renewal to the petitioner/ cancelling the renewal already granted to him.

In the present case the petitioner had applied on 29.11.2014, i.e., clearly a month before the expiry of the period in his Letter of Authority and the renewal thereof was due to 31.12.2014. It is well known that such matters are rarely decided forthwith in the Government Departments. Moreover, in the present case it appears from the materials on the record that the renewal had to be granted by the Regional Transport Authority which is a statutory body which meets from time to time to consider all such proposals, but it was not functional throughout the year. In the said circumstances, it cannot be said that there was any such deliberate delay so as to deprive the petitioner of any benefit.

Moreover, considering the fact that the policy decision has been taken not to authorize private testing centers, it cannot be said that any person has such right to continue such centers. The exception has been made only for those whose Letter of Authority was still valid and they were running their centers. Once the period of licence of such private center comes to a close, such private testing center also do not have any right



to renewal. In the said scenario there cannot be any occasion for the respondents to have allowed the petitioner to continue with the private testing center by renewing the Letter of Authority contrary to the policy decision.

In the light of the aforesaid discussions the writ application is found to be devoid of any merit. It is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

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