

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11075 of 2016

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1. Ravi Tiwari, Son of Late Ram Bilash Tiwari, 43 South Mandiri, P.S.- Kotwali, District- Patna.
 2. Vishal Tiwari, Son of Sri Ravi Tiwari at House No.52, Block-4, Rajendra Nagar, Patna, P.S.- Kadamkuan, District- Patna.
 3. Nishan Tiwari, Son of Sri Ravi Tiwari at House No.52, Block-4, Rajendra Nagar, Patna, P.S.- Kadamkuan, District- Patna.
 4. Smt. Archana Thakur, daughter of Sri Abhay Thakur, resident of House No.52, Block-4, Rajendra Nagar, Patna, P.S.- Kadamkuan, District- Patna.
 5. Kailash Mishra, Sone of Ramakant Mishra, resident of Bhagwanpur, Muzzafarpur, P.S.- Kotwali, District- Muzaffarpur.
 6. Sumant Saurav, Son of Sri Kailash Mishra at Bhagwanpur, P.S.-Kotwali, District- Muzzafarpur.
 7. M/s Gupta Transport Proprietor, Shailendra Rai at Emalichatti, P.S.- Brahampur, District- Muzaffarpur.
 8. Amar Jyoti Corrier Pvt. Ltd. through Prop. Amar Pandey at Uma Market Motijhila, Muzaffarpur, P.S.- Nagar, Bistrict- Muzaffarpur.
 9. Sujit Kumar singh, Son of Sri Ram Sakal Singh, resident of Raipura, P.S.- Muffasil Aurangabad, District-Aurangabad.
 10. Janshad Khan, Son of Md. Ashikh Khan at Hemjapur Sherghati, P.S.-Amar, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Transport, Government of Bihar, Old Secretariat, Patna.
2. State Transport Authority, Bihar, Patna Old Secretariat, Patna through its Secretary, at Vishweshraiya Bhawan, Bailey Road, Patna.
3. Chairman State Transport Authority –cum- Member Board of Revenue, Government of Bihar, Patna Old Secretariat, Patna.
4. Principal Secretary, Transport Department, Government of Bihar, Patna at Vishweshraiya Bhawan, Baily Road, Patna.
5. The State Transport Commissioner –cum- Secretary, S.T.A., Bihar Patna at Vishwashraiya Bhawan, Baily Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siya Ram Shahi, Advocate
Mr. Mukesh Kumar Singh
For the Respondent/s : Mr. Sadanand Paswan, G.P.-29

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 14-07-2016

Perused the office notes.

Mr. Siya Ram Shahi, learned counsel for the petitioners seeks permission to delete the name of the petitioner no.7 from the array of the petitioners during the course of the day and renumber

the petitioners accordingly.

Heard Mr. Siya Ram Shahi, learned counsel for the petitioner and Mr. Avinash Kumar Sinha, learned A.C. to G.P.-29.

In the nature of the order which this Court proposes to pass it would not require awaiting of a counter affidavit.

The grievance of 10 petitioners herein is that although in terms of the advertisement present at Annexure-1 which invites applications for Inter State Stage Carriage Permits but in so far as the date of filing of such application is concerned, it was mentioned that the same would be published subsequently. Mr. Shahi, learned counsel for the petitioners has referred to a newspaper publication which also forms part of Annexure-1 at page 15 to submit that the last date for filing such application was subsequently published as 20.6.2016 which was a Monday. He submits that application of these petitioners was complete in all respects for filing but since 20.6.2016 was declared a public holiday on account of '*Shab-e-Barat*' and since 18.6.2016 and 19.6.2016 were Saturday and Sunday respectively that they tried to submit their respective applications before the Secretary, State Transport Authority on 21.6.2016 but was not accepted on ground that last date had lapsed on 20.6.2016. The petitioners filed their respective representation before the Principal Secretary-respondent no.1, on 21.6.2016, copies of which are present at Annexure-3 series inviting his attention towards this lapse on the part of the department in not accepting

their applications on 21.6.2016 despite the fact that 20.6.2016 was a declared holiday but since no response was received that they have moved the present writ petition.

The short argument of Mr. Shahi is that since admittedly 20.6.2016 was a public holiday as per the State Government Calendar, the Secretary, State Transport Authority was not justified in refusing to receive the applications of the petitioners on 21.6.2016 on grounds that the last date had lapsed on 20.6.2016. It is submitted that the State Transport Authority is meeting tomorrow for finalizing the permits but the petitioners have been ousted unreasonably as well as unjustifiably.

It is in the nature of the dispute raised in this application that the learned State Counsel was directed to ascertain the factual position and on seeking oral instructions that is intimated at the bar by learned State Counsel that although 20.6.2016 was a declared public holiday but the office did function and some applications have also been received. Learned State Counsel however is unable to inform this Court, whether there was a public notice published in the newspaper intimating the intending applicants that 20.6.2016 would be a working day for the department for the purpose of receipt of the applications. In my opinion in absence of any such public notice to the general public informing them that 20.6.2016 would be a working day for receipt of applications, no fault can be found in the belief of the petitioners that 20.6.2016 being a public

holiday their applications would be received on the next working day that is 21.6.2016 and on which date they have not only tried to file their application but have also represented before the Principal Secretary, Transport Department.

In the circumstances discussed, there cannot be two opinions about the fact that the petitioners have been wronged and denied an opportunity of consideration unjustly. 20.6.2016 being admittedly a public holiday, the State Transport Authority should have accepted all applications on the next working date i.e. 21.6.2016. Not having done so, the Secretary, State Transport Authority or the authority concerned has acted arbitrarily and contrary to well settled principles. I thus deem it proper to direct the Secretary, State Transport Authority to accept the application(s) of these ten petitioners and place them before the State Transport Authority for its consideration along with other applications when the meeting takes place tomorrow for finalizing the road permits.

The writ petition is allowed.

Since this order is being passed in presence of learned State Counsel he shall be informing the Secretary, State Transport Authority for ensuring compliance.

(Jyoti Saran, J)

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