

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No.801 of 2015

- Abdul Shafiq, S/o Shri Abdu Ol Hakim, aged about 55 years, R/o Moudahapara, Raipur, District Raipur (CG)

---- Petitioner

Versus

- Regional Transport Authority, Raipur, District Raipur (C)G

---- Respondent

For Petitioner	Mr. Ajay Shrivastava, Advocate
For Respondent/State	Mr. Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

26/7/2016

1. Heard.
2. The petitioner would assail the appellate order passed by the State Transport Appellate Tribunal (in short "the STAT") affirming the order passed by the Regional Transport Authority, Raipur (in short "the RTA"), rejecting his application for grant of regular stage carriage permit on the route Sarangarh to Raipur via Saraipali, Pithaura, Aarang.
3. Relying on the order passed by a coordinate Bench of this Court on 01.07.2014 in WPC No.943 of 2014, it is argued by learned

counsel for the petitioner that under Section 80(2) of the Motor Vehicles Act, 1988 (in short "the Act") , whenever RTA propose to reject the application for grant of regular stage carriage permit, a notice is required to be given and hearing to be afforded before passing an order on the point of rejection. It is put-forth that the mandate of the law has not been followed, inasmuch as, although the petitioner was heard but no hearing was afforded on rejection of the application.

4. Learned counsel for the State would submit that once an opportunity of hearing has been provided, the same is for adhering the principles of natural justice and it is immaterial whether the application is ultimately allowed or rejected.
5. Sub-section (2) of Section 80 the Act is reproduced hereunder for ready reference:

"80(2) A Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66 shall not ordinarily refuse to grant an application for permit of any kind made at any time under this Act:

Provided that the Regional Transport Authority, State Transport Authority or any prescribed authority referred to sub-section (1) of Section 66 may summarily refuse the application if the grant of any permit in accordance with the application would have the effect of increasing the number of stage carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 71 of

contract carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 74:

Provided further that where a Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66 refuses an application for the grant of a permit of any kind under this Act, it shall give to the applicant in writing its reasons for the refusal of the same and an opportunity of being heard in the matter."

6. Bare perusal of the provision would manifest that an application for grant of permit shall not ordinarily be refused and it is for this reason, the proviso prescribes that whenever the Regional Transport Authority or State Transport Authority refuses an application for grant of a permit, it shall give to the applicant in writing its reasons for the proposed refusal and afford opportunity of being heard in the matter. The language is plain and unambiguous that the proposed rejection of application has to be informed to the applicant and is required to be afforded opportunity of hearing on such proposed refusal of the application.
7. The provision clearly provides for opportunity of hearing for the specific purpose or object and the stage on which such opportunity is to be afforded is also mentioned . If the stage, on which opportunity of hearing is afforded, is ingrained in the statutory provision, the applicant has statutory right of hearing at that stage and non-affording of such opportunity would

vitiate the order.

8. Accordingly, the impugned order passed by the RTA, Raipur and the STAT, are set-aside and matter is remitted back to the RTA, Raipur for taking decision afresh in accordance with law.
9. Let fresh decision be taken by the RTA, Raipur within a period of 03 months from the date of submission of certified copy of this order.

Sd/-

Judge

(Prashant Kumar Mishra)

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