

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10712 OF 2015

- 1] Pradeep Sharma S/o Krishnamurari Sharma,
Age 52 years, Occ-Transport Business,
R/o H.No. 58/1, Shantipura, Dewas (M.P.)

... PETITIONER

VERSUS

- 1] The State of Maharashtra
through its Secretary to Home Department
(Transport), Mantralaya, Mumbai – 400 032.
- 2] The Transport Commissioner,
Maharashtra State, Administrative
Building, 3rd and 4th Floor,
Dr. Ambedkar Udyan, Government Colony,
Bandra (East), Mumbai – 400 051.
- 3] The Secretary, State Transport Authority,
Maharashtra State, Mumbai.
- 4] The State of Madhya Pradesh through
the Ministry of Transport,
Mantralaya, Bhopal.
- 5] The State Transport Authority of Madhya
Pradesh, Gwalior, through its Secretary.

.. RESPONDENTS

...

Mr. Pramod F. Patni, Advocate for Petitioner.
Mr. V.M.Kagne, AGP for Respondent Nos.1 to 3.
Respondent Nos.4 & 5 served.

...

WITH

WRIT PETITION NO. 2638 OF 2015

- 1] Narbadalal S/o Pannalal Gupta,

Age 53 years, Occ-Transport Business,
R/o A-66, Old Indira Colony,
Burahanpur (M.P.)

... PETITIONER

VERSUS

- 1] The State of Maharashtra
through its Secretary to Home Department
(Transport), Mantralaya, Mumbai – 400 032.
- 2] The Transport Commissioner,
Maharashtra State, Administrative
Building, 3rd and 4th Floor,
Dr. Ambedkar Udyan, Government Colony,
Bandra (East), Mumbai – 400 051.
- 3] The Secretary, State Transport Authority,
Maharashtra State, Mumbai.
- 4] The State of Madhya Pradesh through
the Ministry of Transport,
Mantralaya, Bhopal.
- 5] The State Transport Authority of Madhya
Pradesh, Gwalior, through its Secretary.

.. RESPONDENTS

...
Mr. Pramod F. Patni, Advocate for Petitioner.
Mr.V.M.Kagne AGP for Respondent Nos.1 to 3.
Respondent Nos.4 & 5 served.

...

WITH

WRIT PETITION NO. 2654 OF 2015

- 1] Narbadalal S/o Pannalal Gupta,
Age 53 years, Occ-Transport Business,
R/o A-66, Old Indira Colony,
Burahanpur (M.P.)

... PETITIONER

VERSUS

- 1] The State of Maharashtra through its Secretary to Home Department (Transport), Mantralaya, Mumbai – 400 032.
- 2] The Transport Commissioner, Maharashtra State, Administrative Building, 3rd and 4th Floor, Dr. Ambedkar Udyan, Government Colony, Bandra (East), Mumbai – 400 051.
- 3] The Secretary, State Transport Authority, Maharashtra State, Mumbai.
- 4] The State of Madhya Pradesh through the Ministry of Transport, Mantralaya, Bhopal.
- 5] The State Transport Authority of Madhya Pradesh, Gwalior, through its Secretary.

.. RESPONDENTS

...

Mr. Pramod F. Patni, Advocate for Petitioner.
Mr. V.M.Kagne, AGP for Respondent Nos.1 to 3.
Respondent Nos.4 & 5 served.

...

WITH

WRIT PETITION NO. 5928 OF 2015

- 1] Subhash S/o Sitaram Bhadane, Age 50 years, Occ-Transport Business, R/o Gawshinde Nagar, Khargone, Dist. Khargone (M.P.)

... PETITIONER

VERSUS

- 1] The State of Maharashtra through its Secretary to Home Department (Transport), Mantralaya, Mumbai – 400 032.
- 2] The Transport Commissioner, Maharashtra State, Administrative Building, 3rd and 4th Floor, Dr. Ambedkar Udyan, Government Colony,

Bandra (East), Mumbai – 400 051.

- 3] The Secretary, State Transport Authority,
Maharashtra State, Mumbai.
- 4] The State of Madhya Pradesh through
the Ministry of Transport,
Mantralaya, Bhopal.
- 5] The State Transport Authority of Madhya
Pradesh, Gwalior, through its Secretary.

.. RESPONDENTS

...

Mr. Pramod F. Patni, Advocate for Petitioner.

Mr. V.M.Kagne, AGP for Respondent Nos.1 to 3.

Respondent Nos.4 & 5 served.

...

WITH

WRIT PETITION NO. 8659 OF 2015

- 1] Pawan S/o Ashok Arora,
Age 28 years, Occ-Business,
R/o Vinay Nagar Sector, No.2, Gwalior (M.P.)
Through his G.P.A. Vijaykumar S/o Kunjilal
Bhaat, Age 40 years, Occ-Business,
R/o C-9, B, Dwarikapuri Near Khodapati Mandir,
Gwalior (M.P.)

... PETITIONER

VERSUS

- 1] The State of Maharashtra
through its Secretary to Home Department
(Transport), Mantralaya, Mumbai – 400 032.
- 2] The Transport Commissioner,
Maharashtra State, Administrative
Building, 3rd and 4th Floor,
Dr. Ambedkar Udyan, Government Colony,
Bandra (East), Mumbai – 400 051.

- 3] The Secretary, State Transport Authority,
Maharashtra State, Mumbai.
- 4] The State of Madhya Pradesh through
the Ministry of Transport,
Mantralaya, Bhopal.
- 5] The State Transport Authority of Madhya
Pradesh, Gwalior, through its Secretary.

.. RESPONDENTS

...
Mr. Pramod F. Patni, Advocate for Petitioner.
Mr. V.M.Kagne, AGP for Respondent Nos.1 to 3.
Respondent Nos.4 & 5 served.

...

**CORAM : A.V.NIRGUDE &
V.L.ACHLIYA,JJ.**

DATED : 29TH MARCH,2016

ORAL JUDGMENT [PER V. L.ACHLIYA,J.] :-

Heard. Rule. Rule made returnable forthwith. With the consent of the parties, Petitions are taken up for final hearing at admission stage.

2] We have heard the learned counsel for the petitioner and the learned AGP for respondents no.1 to 3. Respondents no.4 and 5 though served, remained absent. In nut shell, it is contention of the learned counsel for the petitioner that the subject matter of the petition is identical to group of writ petitions decided alongwith Writ Petition No.4098/2014 vide judgment and order dated 11th March, 2016 decided by Division Bench of this Court (Coram : R.M.Borde and A.I.S.Cheema,JJ.) and the issue involved in the petition is squarely covered by said decision. The learned AGP appearing for

respondents no.1 to 3 fairly conceded that the issue involved in the petitions is squarely covered by the said decision.

3] We have perused the petition as well as copy of the said judgment. We have thoroughly considered the submissions advanced in light of the decision in Writ Petition No.4098/14. The issue raised in the petition that the respondents have no authority in law to levy and demand passenger tax at the rate of 70% of the load factor of seating capacity of passengers transport vehicle since it is contrary to law and provisions of Bombay Motor Vehicles (Taxation of Passengers) Act, 1958 was dealt at length in Writ Petition No.4098/2014 and group of other petitions decided vide judgment and order dated 11th March, 2016. The Division Bench of this Court has held as under :

“11] For the reasons recorded above, Writ Petitions deserve to be allowed and the same are accordingly allowed. Respondents have no authority in law to levy and demand passenger tax at the rate of 70% of the load factor of seating capacity of passenger transport vehicle since it is contrary to provisions of the Act of 1958, as well as impermissible for the reasons set out above. Respondents – State authorities shall not demand passenger tax on computation of 70% of load factor of the seating capacity of the passenger transport vehicle and shall levy and collect tax strictly in accordance with the provisions of Bombay Motor Vehicles [Taxation of Passengers] Act, 1958.

12] Respective counsel for the petitioners, on

instructions, state that in terms of the directions issued by this Court during the pendency of these petitions, petitioners continued to deposit 50% of the amount as claimed from them and, the amount so paid shall be appropriated by the State towards past liability in respect of demand of tax. Petitioners do not have any specific objection for appropriation of the amount which they have deposited during the pendency of the petitions towards tax and, in future, levy and recovery of tax shall be in accordance with the Act of 1958. State Government shall be entitled to the amount deposited / to be deposited in view of interim orders which were passed during pendency of these petitions and to take further appropriate decisions in respect of recovery of past liability/difference of the petitioners as per rules relied on by the petitioners themselves and referred above."

4] Thus the issue raised in the petition is squarely covered by said decision. We therefore, allow the Petitions in terms of the judgment and order dated 11th March, 2016 delivered by Division Bench of this Court (Coram : R.M.Borde and A.I.S.Cheema,JJ.) in Writ Petition No.4098/14 alongwith connected petitions.

5] Rule is accordingly made absolute in above terms. In the facts and circumstances of the case, there shall be no order as to costs.

(V.L.ACHLIYA,J.)

(A.V.NIRGUDE,J.)

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