

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3442 of 2015

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Parivahan Karya Sambandhi Jan Sahyogi Kalyankari Sangh through its General Secretary Umesh Prasad Singh son of Achhya Lal, Mohalla Bakerganj Daldali Road, P.S. Kadamkuan, Patna, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary Transport Department -cum-Transport Commissioner, Govt. of Bihar Vishweshwaraiya Bhawan Bailey Road, Patna.
3. Addl. Transport Commissioner, Bihar, Vishweshwaraiya Bhawan, Bailey Road, Patna.
4. Regional Transport Authority, Patna.
5. District Transport Officer, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Adv.
Mr. S.S. Thakur, Adv.
For the Respondent/s : Mr. Harish Kumar, GP8

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-02-2017

In the present case, the petitioner is a N.G.O., has made a prayer to grant authority in terms of Section 9(3) of the Motor Vehicle Act for the purpose of conducting the test for granting license and submit a report, has been denied.

Five Motor Associations have been mentioned under Rule 10 of the Bihar Motor Vehicle Rule, 1992, namely, the Western Indian Automobile Association, the Automobile Association of Southern India, the Automobile Association of Eastern India, the Automobile Association of Upper India and the Uttar Pradesh Automobile Association. The aforesaid five associations have been conferred the job as provided under Section 9(3) of the Motor



Vehicles Act, 1988 which reads as follows:-

"[9. Grant of driving licence.-

(3) If the applicant passes such test as may be prescribed by the Central Government, he shall be issued the driving licence.

Provided that no such test shall be necessary where the applicant produces proof to show that—

(a) (i) the applicant has previously held a driving licence to drive such class of vehicle and that the period between the date of expiry of that licence and the date of the application does not exceed five years, or

(ii) the applicant holds or has previously held a driving licence to drive such class of vehicle issued under section 18, or

(iii) the applicant holds a driving licence to drive such class of vehicle issued by a competent authority of any country outside India, subject to the condition that the applicant complies with the provisions of sub-section (3) of section 8,

(b) the applicant is not suffering from any disability which is likely to cause the driving by him to be a source of danger to the public; and the licensing authority may, for that purpose, require the applicant to produce a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8.

Provided further that where the application is for a driving licence to drive a motor vehicle (not being a transport vehicle), the licensing authority may exempt the applicant from the test of competence to drive a vehicle prescribed under this sub-section, if the applicant possesses a driving certificate issued by any institution recognised in this behalf by the State Government.]"



Section 9(3) of the Motor Vehicle Act provides that if the prospective candidate passes the driving test will be issued a driving license. The job of conducting driving test has been given to the Automobile Associations which have been mentioned in the Rule itself. The petitioner is not in a position to point out in the rule any such provision has been mentioned conferring such authority to any other NGOs to conduct the driving test and submit the report. Merely because the N.G.O. has been formed does not means that every N.G.O. will be given the same privilege as has been given to the five aforesaid associations. The State Authority must have considered the performance of these associations, on that basis the benefit has been conferred upon them. As the Rule does not provide that this privilege can be granted to other associations, in such circumstances, merely filing an application for grant of such privilege cannot be ipso facto be given to the petitioner unless a specific provision is inserted in the Act as well as in the Rule.

In the result, this Court does not find any merit in this writ application and the same is, accordingly, dismissed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.02.2017
Transmission Date	

