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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.1303 of 2017**

Umashankar Prasad Gupta, S/o Shri Thakur Chand Prasad Gupta, aged about 49 years, R/o Vivekanand Colony Ward No.9, Tahsil and District Jashpur (CG).

---- Petitioner**Versus**

1. State Transport Appellate Tribunal Ghadi Chowk Raipur, District Raipur (CG).
2. Regional Transport Authority Amikapur, District Surguja (CG).
3. Mohd. Farukh S/o Abdul Rasid, aged about 64 years, R/o Kharsiya Naka Ambikapur, District Surguja (CG).
4. Ashutosh Tiwari, S/o Shri B. Tiwari, Pilkha Bus Service Bus Stand Ambikapur, District Surguja (CG).

--- Respondents

For Petitioner : Mr. Santosh Gupta, Advocate
 For State/Respondent No.2: Mr. Gary Mukhopadhyay, Dy.G.A.
 For Respondent 3 : Mr. B.P. Gupta & Ms. Richa Gupta,
 Advocates
 For Respondent No.4 : Mr. Virendra Verma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

06/09/2017

(1) The petitioner-Umashankar Prasad Gupta herein is a owner of bus bearing Registration No.C.G.-14/G-0208 for which, he made an application under Section 70 of the Motor Vehicle Act, 1988 before the Regional Transport Authority, Ambikapur on 10.09.2015. The said authority by order dated 04.01.2016 granted

permanent stage carriage permit for plying the said vehicle from Jashpur to Shankh via Lodma, Tangartoli and one single return trip daily for the period from 11.02.2016 to 10.02.2021, which he was plying. Thereafter, on 10.09.2015 he made an another application before the Regional Transport Authority, Ambikapur under Section 70 of the Motor Vehicle Act, 1988 for grant of permanent stage carriage permit for plying the said bus from Ambikapur to Jashpur via Bariyo, Rajpur, Dipadih, Badamod, Chamma and Sanna and one single return trip daily. The Regional Transport Authority, Ambikapur by its order dated 09.03.2016 has granted permit for plying his vehicle for the period from 06.04.2016 to 05.04.2021. Thereafter, on 15.03.2016 he made an application to the Regional Transport Authority, Ambikapur to surrender his permit granted on 04.01.2016 to ply the said bus from Jashpur to Shankh, which was accepted by the said Authority on 31.03.2016 as stated by the learned counsel for the State/respondent No.2.

(2) Feeling aggrieved against the order dated 09.03.2016 passed by the Regional Transport Authority, Ambikapur, the respondents No.3 & 4 herein both have preferred two separate revisions before the State Transport Appellate Tribunal, Raipur calling in question the legality, validity and correctness of the order dated 09.03.2016. The State Transport Appellate Tribunal, Raipur by its order dated 15.03.2017 have allowed both the revisions preferred by the respondents No.3 & 4 and order dated

09.03.2016 has been set-aside.

(3) Questioning the legality of the order dated 15.03.2017, this writ petition under Article 226 of the Constitution of India has been preferred by the petitioner herein.

(4) Mr. Santosh Kumar Gupta, learned counsel appearing for the petitioner would submit that there are no restriction and control either in terms of stage carriage permits and limitation of period in applying for it and number of vehicle plying on the given routes and therefore, the impugned order passed by the State Transport Appellate Tribunal, Raipur deserves to be set-aside.

(5) Per contra, Mr. B.P. Gupta, learned counsel appearing for the respondent No.3 would submit that on 09.03.2016, the Regional Transport Authority, Amibapur has illegally granted permanent stage carriage permit to the petitioner for plying the said bus from Ambikapur to Jashpur via Bariyo, Rajpur, Dipadih, Badamod, Chamma and Sanna and one single return trip daily for the period from 06.04.2016 to 05.04.2021 whereas, the petitioner had the permanent stage carriage permit to ply his bus at the same time on that day from Jashpur to Sankh via Lodma, Tangartoli and one single return trip daily granted on 04.01.2016 by the said authority on the said vehicle owned by the petitioner and subsequently, all of a sudden the petitioner has surrendered his permit on the route from Jashpur to Shankh before the

Regional Transport Authority, Ambikapur on 15.03.2016. That has not been accepted by the said Authority till this date. He would further submit that there was no route formulated from Ambikapur to Jashpur within a meaning of Section 68(3)(a) of the Motor Vehicle Act, 1988.

(6) Per contra, Mr. Gary Mukhopadhyay and Mr. Virendra Verma, learned counsel appearing for the respective respondents would support the impugned order and oppose the prayer made by the learned counsel for the petitioner.

(7) I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(8) In order to decide the dispute, it would be appropriate to notice Rule 72(3)(b) of the Rules of 1994 states as under:-

"72. Forms of Application For Permits.-(1)xxxxx

(2) xxxxxx

(3) The application for stage carriage permit or reserved stage carriage permit as required under subsection (1) of Section 70 shall be accompanied by the following documents, namely:

(a) xxxxxxxx

(b) certificate from Registering Authority containing make, model and seating capacity of the vehicles

owned by the applicant at the time of making the application;"

(9) The aforesaid Rule clearly mandates that the vehicle should be owned by the petitioner at the time of making an application for stage carriage permit.

(10) Section 80(1) & (2) of the Motor Vehicles Act, 1988 provides as under:-

"80. Procedure in applying for and granting

permits-(1) An application for a permit of any kind may be made at any time.

(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 in 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 or 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

(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.

(11) The Act of 1988 has been enacted consolidating and amending the law relating to motor vehicles and there is a remarkable departure from the earlier Act particularly in the matter of grant of stage carriage permit. The control, restrictions and regulations in earlier Act are done away with in furtherance of its objects as contained in objects and reasons of the Act *inter alia* providing simplification of procedure and policy liberalizations for private sector operations in the road transport fields regard being had to the fast increase in number of both commercial and personal vehicles in the country with the greater flow of passengers (Emphasis Supplied). Section 80 of the Act of 1988 talks of procedure in applying for and granting permits and *inter alia* provides that an application for permit of any kind may be made at any time and the prescribed authority shall not ordinarily refuse to grant the permit so applied. Section 68(3) (ca) of the Act of 1988 provides that the government shall formulate routes for plying the stage carriages. Section 70 provides for application for stage carriage permit and details required to be specified therein. Section 71 provides for procedure of Regional Transport Authority

in considering the application for stage carriage permit. Therefore, the scheme underlying the new Act and various provisions (Sushil Kumar Maity Vs. State of M.P. and others) contained therein suggest that restrictions, control and regulations provided for in the old repealed Act particularly Sections 48, 50, 51 and 52 in the matter of grant of stage carriage permits on notified routes are done away with. Besides, provisions as regards limitation of time period or cut off date for applying for stage carriage permits, publication of public notices, inviting objections, hearing of objections as regards number of grant of stage carriage permits, number of trip qua the time schedule etc. are also done away with.

(12) Thus, it appears that there are no restriction in the Motor Vehicle Act either in terms of grant of stage carriage permit or limitation of period in applying for it on number of vehicles plying on the given routes.

(13) The identical question came up for decision before the High Court of M.P. in the matter of **Sushil Kumar Maity and State of M.P. & Others reported in 2015 (II) MPJR 18** in which, the identical fact has considered and held as under:-

"Now there are no restriction and control either in terms of grant of stage carriage permits or limitation of period in applying for it or number of vehicle plying on the given routes. In this regard it is apposite to refer to the mandate contained in Section 80(1) and 80(2) of

the Act of 1988. Section 81 provides for procedure to make an application for permit of any kind at any time. Subsection (2) thereof provides for consideration of application for permit of any kind made at any time under the Act. Conjoint reading of Sections 80(1) and 80(2) unambiguously provides for consideration of application filed at any time or the application filed at the time of consideration. There is no limit as regards number of applications. Rule 72 provides for forms of application for permits, whereunder 72(3) (b) provides for requirement of the vehicle to have a certificate from the registration authority containing (i) make, mode and seating capacity of the vehicle and (ii) owned by the applicant at the time of making the application. The aforementioned twin requirements of Rule 72(3)(b), in the opinion of this Court, do not restrict or limit only one vehicle for grant of different stage carriage permits. Hence, the contention of learned counsel for the petitioner that on one vehicle only one stage carriage permit can be granted is contrary to the mandate contained in the new Act of 1988 as well as provisions contained therein and Rule of 1994 particularly Rule 72(3)(b)."

(14) In the present case, undisputedly the petitioner is a owner of bus bearing Registration No.C.G.-14/G-0208 though he had permanent stage carriage permit for plying the said vehicle on the route from Jashpur to Shankh via Lodma, Tangartoli and one single return trip daily for the period from 11.02.2016 to 10.02.2021 on the date of making another application for permanent stage carriage permit for plying the said vehicle on the

route from Ambikapur to Jashpur via Bariyo, Rajpur, Dipadih, Badamod, Chamma and Sanna and one single return trip daily, but since he has surrendered his permit on the route from Jashpur to Sankh before the Regional Transport Authority, Ambikapur on 15.03.2016, which was accepted by the said authority on 31.03.2016 as it has been informed by the State counsel and in case that there is no restriction or bar that the owner of the vehicle having one stage carriage permit operating, cannot make an application for another stage carriage permit for the another route. Therefore, the State Transport Appellate Tribunal, Raipur is absolutely unjustified in allowing the revision filed by the respondents No.3 & 4 herein and setting-aside the order dated 09.03.2016 passed by Regional Transport Authority, Ambikapur.

(15) The State Transport Appellate Tribunal, Raipur has allowed both the revisions preferred by the respondents No.3 & 4 only on the ground that what has been discussed hereinabove i.e. non-availability of the vehicle for the purpose of impugned route and the ground of not formulation of the route has not been pressed by the respondents No.3 & 4 and therefore, it has not been considered elaborately by the State Transport Appellate Tribunal. Therefore, considering that point in the writ petition preferred at the instance of the petitioner does not arise.

(16) As a fallout and consequence of the aforesaid discussion, the writ petition deserves to be and is hereby allowed.

The impugned order dated 15.03.2017 is hereby quashed. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

L/-