

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.1988 of 2017**

M/s Naveen Transport Through Partner Harjinder Singh Bal S/o. Late Shri Nirmal Singh Bal, aged 54 years, R/o Plot No.8-B, Industrial Area, Dhamdha Road, Durg, Dist. Durg (CG)

---- Petitioner

Versus

1. The State Of Jharkhand Through Principal Secretary, Department Of Transport, Ranchi Jharkhand
2. The State Transport Authority, Jharkhand, Office At Ranchi, F.F.P. Building H.E.C. Camp, Dhurva, Ranchi, Jharkhand.
3. The Secretary, S.T.A. Jharkhand, Ranchi, F.F.P. Building H.E.C. Camp, Dhurva, Ranchi, Jharkhand.
4. The State Of Chhattisgarh, Through Secretary, Department Of Transport, New Capital Complex, New Raipur, District Raipur (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr.Sudeep Johri, Advocate
For Respondent No.4	:	Mr.Arun Sao, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

21/7/2017

1. Learned counsel for the petitioner would submit that the State of Jharkhand has entered into reciprocal transport agreement with the State of Chhattisgarh for operation of State Carriage Permit published in the Official Gazette of Chhattisgarh on 2.4.2008, yet it is not being countersigned by the State of Jharkhand as contained in Section 88(1) of the Motor Vehicles Act, 1988 (hereinafter called as 'Act of 1988').
2. On the other hand, learned State counsel appearing for respondent No.4 would submit that the State of Jharkhand is bound to comply with the mutual agreement entered between the parties for operation of State Carriage Permit and therefore, the State of Jharkhand be directed to comply with the reciprocal transport agreement.

3. I have heard learned counsel appearing for the parties, considered their submissions made hereinabove and also gone through the record with utmost circumspection.

4. The Supreme Court in the matter of A. Venkatakrishnan Vs. State Transport Authority, Kerala¹ has pointed out the condition precedent for issuance of inter-State route permit and clearly held for issuance of reciprocal agreement between the two States within which the proposed inter-State route lies, agreement is mandatory. In absence of any such agreement as contemplated under Section 88(5) of the Act of 1988 between two States, the State Transport Authority of one State has no jurisdiction to grant the permit. It was observed as under:-

“13. A purposive and meaningful construction, it is trite, must be given to a statute, so that it is made workable. A statute should not be construed in such a manner, which would create a vacuum. In the absence of any route being fixed in terms of an agreement, in the event it be held that an application for grant of permit for inter-State route can be entertained, the same would lead to a futile exercise. A mutual approval of the States concerned, in the matter, therefore, must be held to be mandatory. In other words, the proviso, appended to sub-section (4) of Section 88 of the Act, must be read conjointly with sub-sections (5) and (6) of Section 88 thereof and, consequently, it must be held that by necessary implication agreements are contemplated for creation of inter-State routes.”

5. Taking the note of the fact that there is reciprocal transport agreement between the State of Chhattisgarh and State of Jharkhand for operation of State Carriage Permit, further taking the note that permit has been granted by the State of Chhattisgarh to the petitioner on 5.5.2016, but it is not considered by the State of Jharkhand/respondents No.1 and 2 till this date, the petitioner is directed to submit copy of permit granted to him along with copy of

1 (2004) 11 SCC 207

this order and copy of mutual agreement between two States before respondents No.1 and 2 and in turn, respondents No.1 and 2 are directed to consider the case of the petitioner for grant of State Carriage Permit as contained in Section 88 (1) of the Act of 1988 within a period of 30 days from the date of receipt/production of certified copy of this order on behalf of the petitioner.

6. With the aforesaid observation, the writ petition finally stands disposed off. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-