IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4193 OF 2016

Kailas Dinkar Bhosale ..Petitioner
Vs.
Regional Transport Authority
through Regional Transport Officer, Pune ..Respondent

WITH
WRIT PETITION STAMP NO.9080 OF 2016

Dinkar Balvant Patil ..Petitioner
Vs.
Regional Transport Authority
through Regional Transport Officer, Pune ..Respondent

WITH
WRIT PETITION STAMP NO.9081 OF 2016

Ramdas Dnynoba Galande ..Petitioner
Vs.
Regional Transport Authority
through Regional Transport Officer, Pune ..Respondent

WITH
WRIT PETITION STAMP NO.9083 OF 2016

Ananda Haribhau Jadhav ..Petitioner
Vs.
Regional Transport Authority
through Regional Transport Officer, Pune ..Respondent

WITH
WRIT PETITION STAMP NO.9084 OF 2016

Sadashiv Mahaling Swami ..Petitioner
Vs.
Regional Transport Authority
through Regional Transport Officer, Pune ..Respondent

WITH
WRIT PETITION STAMP NO.9086 OF 2016

Sambhaji Haribhau Dagade ..Petitioner
Vs.
Regional Transport Authority
through Regional Transport Officer, Pune ..Respondent

WITH
WRIT PETITION STAMP NO.9103 OF 2016

Dattatraya Narayan Gawade ..Petitioner
Vs.
Regional Transport Authority
through Regional Transport Officer, Pune ..Respondent

WITH
WRIT PETITION STAMP NO.9104 OF 2016

Subhash Sahdev Zunjurake ..Petitioner
Vs.
Regional Transport Authority
through Regional Transport Officer, Pune ..Respondent

WITH
WRIT PETITION STAMP NO.9105 OF 2016

Mahadu Dattatraya Dendage ..Petitioner
Vs.
Regional Transport Authority
through Regional Transport Officer, Pune ..Respondent

Mr. Priyal G. Sarda for the Petitioners
Mrs. M. S. Bane "B" Panel Counsel for the Respondent

CORAM : R. M. SAVANT, J.
DATE : 24th JANUARY, 2017

P.C.

1 The above Writ Petitions take exception to the order dated 15-1-2016 passed by the Learned Presiding Officer, State Transport Appellate

Tribunal, Maharashtra State, Mumbai, by which order, the Appeals filed by the Petitioners against the order dated 5-6-2014 passed by the Regional Transport Authority rejecting their applications for renewal of permits came to be dismissed.

2 The Petitioners were issued permits sometime in the year 1995 for plying 3 + 1 seater auto rickshaw by the Regional Transport Authority within the Municipal Corporation limits of the city of Pune. The said 3 + 1 seater auto rickshaw were admittedly run on petrol. The Petitioners it seems approached the Regional Transport Authority, Pune sometime in the year 1997 for being permitted to replace the 3 + 1 seater auto rickshaw by 6+ 1 seater auto rickshaw which run on diesel on the said permit. The said applications were considered on the touchstone of Section 83 of the Motor Vehicles Act 1988 and such permission was granted to the Petitioners. The issue of whether a 3 + 1 seater auto rickshaw could be replaced by a 6 + 1 seater auto rickshaw, had engaged the attention of the Regional Transport Authority, Pune. It seems that the Regional Transport Authority, Pune in its meeting held on 9-3-1999 took a policy decision that having regard to Section 83 of the said Act, a 3 + 1 seater auto rickshaw could not be replaced by 6 + 1 seater auto rickshaw, in respect of permits granted for 3 + 1 seater auto rickshaw. It seems that prior thereto on 6-2-1999 the Transport Commissioner had issued directions to all the Regional Transport Authorities that as per his

interpretation Section 83 only permits replacement by another vehicle of the same type. He opined that 3 + 1 seater auto rickshaws and 6 + 1 seater auto rickshaws are different vehicles and therefore replacement under Section 83 of the Motor Vehicles Act cannot be allowed which would permit a permit-holder of 3 + 1 seater auto rickshaw to ply a 6 + 1 seater auto rickshaw on the same permit and vice versa. A group of permit-holders who had permits for 3 + 1 seater auto rickshaw had applied for replacement of the said vehicles by 6 + 1 seater auto rickshaw. The said applications were rejected by the Regional Transport Authority, Pune in view of the directions of the Transport Commissioner dated 6-2-1999 as also the policy decision of the Regional Transport Authority, Pune taken in the meeting dated 9-3-1999.

3 This resulted in the said group of permit-holders filing Appeals before the Appellate Tribunal. The Appellate Tribunal came to a conclusion that the policy decision of the Regional Transport Authority, Pune as comprised in the resolution passed in the meeting dated 9-3-1999, was not in accord with the legal provisions. The Tribunal accordingly set aside the decision of the Regional Transport Authority, Pune dated 9-3-1999. The said order of the Tribunal was challenged by the State through the Transport Commissioner by filing Writ Petition Nos.34 of 2000 and 5042 of 2000. A Learned Single Judge of this Court admitted the said Writ Petitions on 29-09-2000 and thereby stayed the order passed by the Appellate Tribunal. It seems that the said

Petitions are pending hearing and final disposal.

4 The Petitioners herein applied for renewal of their permits in the year 2010 as the permits granted to them had expired by then. It seems that the applications filed by the Petitioners for renewal which were accompanied by the necessary fees were kept pending. This resulted in the Petitioners filing Writ Petition No.999 of 2014 in this Court for seeking directions for disposal of the said applications. A Division Bench of this Court by order dated 4-12-2014 disposed of the said Petition by directing the authorities to hear the Petitioners and pass appropriate orders in accordance with law. In terms of the directions issued by this Court, the Petitioners were heard by the Regional Transport Authority, Pune. Before the Regional Transport Authority, the Petitioners sought to distinguish their cases from the cases of the permit-holders who had filed the Appeals earlier before the Tribunal and in whose Appeals orders passed by the Regional Transport Authority were set aside. It was the case of the Petitioners that since the replacement sought by them was permitted prior to the decision taken vide the said resolution dated 9-3-1999, the Petitioners were not bound by the said resolution. The said contention of the Petitioners was rejected by the Regional Transport Authority, Pune on the ground that the cases of the Petitioners could not be distinguished from the cases which were earlier before the Appellate Tribunal and which matters had reached this Court by way of the said two Writ Petitions which are pending hearing and final

disposal. The Regional Transport Authority, Pune accordingly observed that the permits of the Petitioners could not be renewed so as to permit them to ply 6 + 1 seater auto rickshaws in place of 3 + 1 seater auto rickshaws and it would be open for the Petitioners to seek renewal of the permits for 3 + 1 seater auto rickshaws. The Regional Transport Authority, Pune accordingly rejected the applications for renewal of permits by order dated 5-6-2004.

5 The said order dated 5-6-2014 passed by the Regional Transport Authority, Pune was taken exception to by way of Appeals filed by the Petitioners being Appeal Nos.42 to 57 of 2014, out of which only 9 Appellants have filed the instant Petitions. The Appellate Tribunal as indicated above has by the impugned order dated 15-1-2016 dismissed the Appeals. The Appellate Tribunal whilst dismissing the Appeals has endorsed the opinion of the Transport Commissioner dated 6-2-1999 as also the resolution dated 9-3-1999 of the Regional Transport Authority, Pune. The Appellate Tribunal held that the Petitioners herein do not form a separate class of auto rickshaw drivers to whom the directions of the Commissioner dated 6-2-1999 as also resolution dated 9-3-1999 of the Regional Transport Authority, Pune would not be applicable. The Appellate Tribunal held that even if the Petitioners were earlier allowed to replace 6 + 1 seater auto rickshaws on the permit of 3 + 1 seater auto rickshaws, they now cannot be permitted to ply 6 + 1 seater auto rickshaws on the original permit granted for 3 + 1 seater auto rickshaws in

view of the directions of the Transport Commissioner dated 6-2-1999 passed on an interpretation of Section 83 of the said Act. The Appellate Tribunal therefore did not deem it appropriate to interfere with the order passed by the Regional Transport Authority dated 5-6-2014 and accordingly dismissed the Appeals.

6 The Learned Counsel for the Petitioners Mr. Sarda would by placing reliance on Section 81 of the said Act contend that the ground for non renewal of permits does not find place in any of the grounds mentioned in Section 81 on the basis of which an application for renewal of permit could be rejected. It was also the submission of the Learned Counsel that though replacement was permitted as long back as in the year 1997 till the year 2010 no objection was taken to the Petitioners plying 6 + 1 seater auto rickshaw on the permit meant for 3 + 1 seater auto rickshaw.

7 In my view, it is not possible to accept the contentions as urged by the Learned Counsel Mr. Sarda. The grounds mentioned in Section 81 cannot said to be exhaustive, the authorities in the event if there is any breach of any statutory provision would be within their rights to take into consideration the said fact and decide upon whether the permit is to be renewed or not. In the instant case, the Transport Commissioner on an interpretation of Section 83 of the said Act had opined that the replacement of a vehicle as contemplated in

the said provision would have to be by another vehicle of the same type. The Regional Transport Authority, Pune had thereafter found fault with the earlier decision taken by it to permit replacement on the ground that on the earlier occasion the authority had proceeded on an erroneous premise that since both 3 + 1 seater auto rickshaws and 6 + 1 seater auto rickshaws were both auto rickshaws, the vehicles belong to the same type, though there was a great difference in both the vehicles, as 3 + 1 seater auto rickshaw is not similar to a 6 + 1 seater auto rickshaw. Hence replacement which was permitted by the Regional Transport Authority in the year 1996 can be said to be in breach and violation of Section 83 of the said Act. If that be so, the authorities were within their rights to deny renewal of permit to the Petitioners to ply 6 + 1 seater auto rickshaw run on diesel in place of 3 + 1 seater auto rickshaw which are run on petrol. Merely because the Petitioners were permitted to run the 6 + 1 Seater auto rickshaws from the year 1996 to 2010 would not create any vested right in them for getting the permit renewed if the replacement of the vehicles itself was found to be in breach of the statutory provisions. The Regional Transport Authority, Pune whilst passing the order dated 5-6-2014 having proceeded on the said basis which order has been confirmed by the Appellate Tribunal, this Court does not deem it appropriate to exercise its Writ Jurisdiction under Article 227 of the Constitution of India. The Writ Petitions are accordingly dismissed.

8 Needless to state that if the Petitioners apply for renewal of permit for a 3 + 1 seater auto rickshaw, the authorities would consider the said applications in accordance with the Act and the Rules.

[R.M.SAVANT, J]