

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**Writ Petition (T) No. 58 of 2017**

Abdul Shafique S/o Shri Abdul Hakeem, Aged About 53 Years By Occupation Bus Operator, R/o Near Sahara Battery, Moudhapara, Raipur, Office at Bus Stand, Pandri, Raipur (Chhattisgarh).

---- Petitioner**Versus**

1. The State of Chhattisgarh Through The Principal Secretary Govt of Chhattisgarh, Transport Department, Secretariat, Mahanadi Bhawan, New Raipur (Chhattisgarh).
2. The Regional Transport Authority, Raipur (Chhattisgarh)
3. The Secretary, Regional Transport Authority Raipur (Chhattisgarh)
4. Shri Sher Singh Gidwani, S/o Late H.R. Gidwani, Katora Talab, Raipur (Chhattisgarh).

---- Respondents

For Petitioner	:	Shri Brajesh Dubey, Advocate.
For State	:	Shri Gary Mukhopadhyay, G.A.
For respondent No.4	:	Shri Ajay Shrivastava, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****05.01.2018**

1. The present petition under Article 226 of the Constitution of India has been preferred by the petitioner assailing the order dated 23.12.2016 passed by the State Transport Appellate Tribunal (in short, the Tribunal) in Revision Case No.33 of 2016.
2. Brief facts of the case is that, the petitioner had applied for permit on 14.01.2016 to ply his Bus on Raipur-Saraipali route. The said route comes within the purview of "medium distance route". The Regional Transport Authority vide order dated 28.05.2016 (Annexure P/4) had ordered for issuance of permit to the petitioner subject to petitioner's furnishing No Tax Dues Certificate in respect of the vehicle which the

petitioner owns within a period of one month. The petitioner applied for issuance of no dues certificate from the RTO and the concerned RTO had issued no dues certificate only on 27.06.2016 and on 11.07.2016 and thereafter he had obtained permit on 20.07.2016. Meanwhile, the respondent No.4 is said to have challenged the order of the Regional Transport Authority dated 28.05.2016 in a revision petition which was registered as revision petition No.33/2016. The revisional authority, vide impugned order has allowed the revision petition and had ordered for cancellation of permit issued in favour of the petitioner.

3. There were three grounds raised by the State Transport Authority while canceling the permit in favour of the petitioner. One was that the time slot which was given in favour of the petitioner was not in accordance with rules wherein the minimum span of time between the two vehicles to be operated was five minutes. The second ground was passed was that the vehicle for which permit was granted was having a seating capacity of 30+2 which would make the petitioner otherwise ineligible for grant of permit in view of Clause-b of Sub-Rule 2(ii) of Rule 70A of the Chhattisgarh Motor Vehicles Rules, 1994 (in short, the Rules, 1994). The third ground on which the Tribunal had ordered for cancellation of permit was that the permit was not lifted within one month from the date of order passed by the Regional Transport Authority i.e. on 28.05.2016.
4. At the outset, if we peruse Annexure P/2 which is an application for grant of permit submitted by the petitioner, it clearly reflects that the

seating capacity of the vehicle was 30+2. At this juncture it would also be relevant to refer Rule 70A (2)(ii) of the Rules, 1994 which for ready reference is reproduced hereinunder:

“(ii) No Stage Carriage Permit shall be granted or renewed on medium routes if -

(a) the vehicle is more than 15 years old from the date of initial registration;

(b) the seating capacity of vehicle is 30 or less than 30 excluding the driver and conductor, subject to the provision of sub-rule (3) of Rule 158 of these rules.”

5. The plain reading of sub-clause (b) of Rule 70A (2)(ii) of the Rules, 1994 would reveal that the Stage Carriage Permit shall not be granted or renewed on the “medium distance routes” if the seating capacity of the vehicle is 30 or less than 30, excluding the Driver and Conductor. Reading of this provision itself shows that a vehicle with seating capacity of 30 stands excluded from getting permit for the “medium distance routes”.
6. The very fact that the provisions of law clearly stipulates that no stage carriage permit shall be granted if the vehicle is seating capacity of 30 itself is a sufficient indication that any vehicle with seating capacity of 30 or less than 30 shall not be given permit for medium distance route.
7. The petitioner though tried to harp on the interpretation that the intention of legislation was that the minimum required seating capacity for grant of permit in medium distance route was 30 or more than 30, which means seating capacity of 30 would be entitled for a permit in this regard, however, this court does not find any force on the said submission when we read the provisions of law i.e. Rules,

1994, both in the English and Hindi version it clearly states that no vehicle shall be granted permit if it has seating capacity of 30 or less than 30 which would mean that the vehicle with seating capacity of 30 also would stand disqualified. This finding of the Tribunal seems to be proper, legal and justified in view of Rules, 1994.

8. In the given facts and circumstances of the case, this court does not find any strong case made out by the petitioner calling for an interference with the impugned order.
9. Since the petitioner stands disqualified only on seating capacity, we need not go into the other issues on which the Tribunal has decided the case against the petitioner. Needless to mention that the petitioner would not be precluded from moving an application before the concerned authority for grant of permit in case if he has vehicles with seating capacity of more than 30.
10. In the event if the petitioner moves such a fresh application, the same may be considered and decided as expeditiously as possible in accordance to law.
11. The petition stands dismissed.

Sd/-
(P.Sam Koshy)
Judge