

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (C) No. 1422 of 2018**

Smt. Saroj Tiwari, wife of Shri Sushil Kumar Tiwari, aged about 46 years,  
resident of Mahamaya Para, Arang, Tahsil Arang, District Raipur (C.G.)

----Petitioner

**Versus**

1. State of Chhattisgarh, through its Secretary, Department of Transport, Mahanadi Bhawan, New Mantralaya, Naya Raipur, District Raipur (C.G.)
2. Regional Transport Authority Raipur, Division Raipur District Raipur (C.G.)
3. Jaspal Singh Chawla, son of Preetam Singh Chawla, resident of Sector -1, Avanti Vihar, Ward No. 2, Telibandha, Raipur, District Raipur (C.G.)

---- Respondents.

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|----------------------|-------------------------------------------------|
| For Petitioner       | : Shri Shailendra Kumar Shukla, Advocate.       |
| For Respondent/State | : Shri Garry Mukhopadhyaya, Dy. Govt. Advocate. |

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

**02/08/2018**

(1) The petitioner's permit for vehicle No. C.G. 04-E/0266 (Make & Model No. 2003) has been cancelled by the impugned order on the ground the vehicle is 12 years' old vehicle and hit by Section 70-A of the Chhattisgarh Motor Vehicles Rules, 1994 (henceforth "Rules, 1994")

(2) Learned counsel for the petitioner would submit that Section 70-A of the Rules, 1994 has been held to be *ultra vires* by this Court in the matter of **Dr. Sandeep Jain & others Vs. State of Chhattisgarh**<sup>1</sup> and other connected matters.

(3) On the other hand, counsel for the State would support the impugned order.

(4) Division Bench of this Court in the matter of **Dr. Sandeep Jain & others** (supra) has held as under:-

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<sup>1</sup> WPC No. 2004 of 2017, decided on 26.07.2018

“16. Keeping in mind the legislative enactments and the scheme of things under the Act, the power which has been exercised by the State Government under the purported Sections 69, 96 and 211 of the Act in no manner confers any power upon the State government to fix the shelf life of public transport vehicles which are used as Stage Carriage Permit. The Notifications, especially after the amendment issued on 08.02.2017 fixing the life to be 12 years across the board for all kinds of routes is nothing but an exercise of power which is not only a camouflage but is also an innovation of overcoming legislative competence which has been vested in the Central Government.

17. We therefore come to a conclusion that the State of Chhattisgarh cannot issue notifications curtailing life and validity of the Stage Permit Vehicles by bringing it lower than the certification of fitness which is issued at the time of registration under Section 59 of the Act. Any changes with regard to the validity and permissibility of the vehicle which can be plied on the road can only be done by the Central Government and therefore, the notification dated 18.05.2011 contained in Annexure P/1 and notification dated 08.02.2017 contained in Annexure P/2 are struck down as *ultra vires* Section 59 of the Act.”

(5) Since Section 70-A of the Rules, 1994 has already been struck down by the Division Bench of this Court in the matter of **Dr. Sandeep Jain & others** (supra), impugned order dated 23.02.2018 passed by Regional Transport Authority is liable to be and is hereby quashed.

(6) Accordingly, the writ petition is allowed.

Sd/-

(Sanjay K. Agrawal)  
Judge

D/-

