

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2807 of 2018**

1. Vijay Kumar Garg S/o Shri T. R. Garg Aged About 49 Years
R/o Village- Paththalgaon, District- Jashpur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Department Of Transport,
New Mantralaya, New Raipur, Chhattisgarh.
2. State Transport Appellate Tribunal Raipur, Chhattisgarh.
3. Regional Transport Authority Bilaspur, Chhattisgarh.
4. Secretary Regional Transport Authority, Bilaspur,
Chhattisgarh.

---- Respondent

For Petitioner	Shri Anshul R. Shrivastava, Advocate
For Respondent/State	Shri Avinash Singh, Panel Lawyer

Order On Board**By****Prashant Kumar Mishra, J.****08/10/2018**

1. Petitioner's application for change in timing for operation of stage carriage under terms of the permit issued for the route Jashpur to Raigarh via Kunkuri, Kansabel, Pathalgaon, has been rejected by the Regional Transport Authority against which petitioner's appeal under Section 89 of the Motor Vehicles Act, 1988 has also been rejected by the appellate authority.

2. A perusal of the order passed by the State Transport Appellate Tribunal would demonstrate that the petitioner has sought for change in timing for the reason that his present timing is clashing with the timings of other operators, therefore, the public at large is not getting facility of buses at regular intervals.
3. The appellate authority has assigned reasons as to why change in timing applied for by the petitioner should not be allowed.
4. If there are more than one vehicle available for carrying the passengers at a particular point of time it is for the authority to decide as to whether prayer for change in timing should be allowed because the decision depends on volume of traffic, convenience of public, availability of buses during other timing applied by the petitioner and so on.
5. While exercising the power under Article 226 of the Constitution of India, this Court may not substitute its decision for the decision taken by the jurisdictional competent authority in matters concerning fixation of timing for plying of buses.
6. The Supreme Court in **B.K. Muniraju v State of Karnataka and Others**¹ held thus at para 22 :

22. It is settled law that a writ of certiorari can only be issued in exercise of extraordinary jurisdiction which is different

¹ (2008) 4 SCC 451

from appellate jurisdiction. The writ jurisdiction extends only to cases where orders are passed by inferior courts or tribunals or authorities in excess of their jurisdiction or as a result of their refusal to exercise jurisdiction vested in them or they act illegally or improperly in the exercise of their jurisdiction causing grave miscarriage of justice. In regard to a finding of fact recorded by an inferior tribunal or authority, a writ of certiorari can be issued only if in recording such a finding, the tribunal/authority has acted on evidence which is legally inadmissible, or has refused to admit an admissible evidence, or if the finding is not supported by any evidence at all, because in such cases the error amounts to an error of law. It is needless to mention that a pure error of fact, however grave, cannot be corrected by a writ.

7. In view of the above, there being no inherent defect in the approach of the concerned authority while dealing with the application of the petitioner, this Court would not overturn the decision of the statutory authorities while exercising jurisdiction under Article 226 of the Constitution of India.
8. As an upshot, the writ petition, being bereft of merit, is liable to be and is hereby dismissed at the motion stage itself.

Sd/-

Judge
Prashant Kumar Mishra

Gowri