

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELENGANA AND THE STATE OF ANDHARA PRADESH**

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**WRIT PETITION No.6714 of 2018**

Between:

India Public Travels rep. by Mohammed

.....Petitioner

and

The State of Telangana rep. by its Principal Secretary, Transport  
Department and 3 others

.....Respondents

Date of Judgment pronounced on : 28-02-2018

**HON'BLE DR. JUSTICE B. SIVA SANKARA RAO**

1. Whether Reporters of Local newspapers : Yes/No  
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes/No  
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No  
Of the Judgment?

**\* HON'BLE DR. JUSTICE B. SIVA SANKARA RAO**

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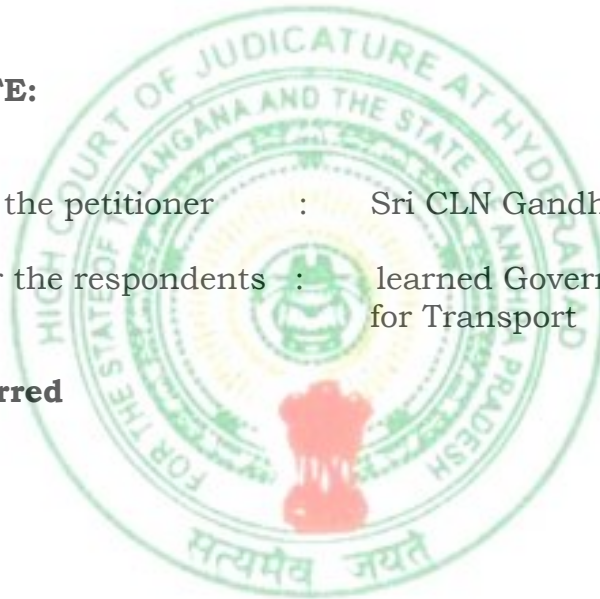
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**> HEAD NOTE:**

! Counsel for the petitioner : Sri CLN Gandhi

^ Counsel for the respondents : learned Government Pleader  
for Transport

**? Cases referred**



**HON'BLE DR. JUSTICE B. SIVA SANKARA RAO****WRIT PETITION No.6714 of 2018****ORDER:**

Heard learned counsel for the petitioner and learned Government Pleader for Transport for respondents and perused the prayer in the writ petition with the supporting affidavit and the impugned proceedings dated 17.02.2018 and the written instructions received by the learned Government Pleader and the memo No.5478/Tr.I(1)/2016 dated 27.09.2016 and Sections 207 & 81 of the Motor Vehicles Act and Rule 6-A of the Motor Vehicle Taxation Rules 1963 (in relation to seizure of the additional tax payable under Section 3 of the Act and its recovery) adopted including for the State of Telangana after the reorganization.

It is the supporting affidavit averment including by reproduction of Rule 6-A of the said Rules clause (1) which speaks when a motor vehicle is found **misused** or used not in accordance with the purpose for which the vehicle was registered, or the permit was granted, attracting higher rate of tax as a vehicle falling of in another category or class, the Licensing Officer of the jurisdiction in which it was found or the Licensing Officer on whose rolls the vehicle stands registered shall issue or cause to be issued a notice to the registered owner or the permit holder or the person in control of the vehicle, as the case may be, to show cause and explain as to why additional tax as mentioned in the notice shall not be levied and collected from him duly giving him at least seven days time to submit his reply.

Thus the very rule speaks of giving of show cause notice and opportunity to give reply and issuing of any proceeding if any

explanation submitted within the statutory period allowable to submit the explanation and perusal of the impugned proceedings dated 17.02.2018 no way refers about any giving of such notice and allowing of the statutory time to give reply, but for direct final order which is contrary to the very statutory provision, leave about the issue involved is something otherwise to it of the vehicle was plying under the erstwhile Ranga Reddy District (newly formed Medchal District) and the Government memo supra dated 27.09.2016 reads that fresh proposals for permit shall be processed based on the jurisdiction of the new Districts, once the process of reorganization have been completed and the existing permits for operation of the transport vehicles shall be valid throughout the territory of old district/districts till the expiry of their permit irrespective of the district reorganization.

Here it is also relevant to read Section 81 of MV Act which is reproduced hereunder:

**“81. Duration and renewal of permits:-**

1. A permit other than a temporary permit issued under section 87 or a special permit issued under sub-section (8) of section 88 shall be effective without renewal for a period of five years:  
Provided that where the permit is countersigned under sub-section (1) of section 88 such countersignature shall remain effective without renewal for such period so as to synchronise with the validity of the primary permit.
2. A permit may be renewed on an application made not less than fifteen days before the date of its expiry.
3. Notwithstanding anything contained in sub-section (2), the Regional Transport Authority or the State Transport Authority, as the case may be, may entertain an application for the renewal of a permit after the last date specified in that sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.
4. The Regional Transport Authority or the State Transport Authority, as the case may be, may reject an application for the renewal of a permit on one or more of the following grounds, namely:--
  - a. The financial condition of the applicant as evidenced by insolvency, or decrees for payment of debts remaining unsatisfied for a period of thirty days, prior to the date of consideration of the application;

- b. the applicant had been punished twice or more for any of the following offences within twelve months reckoned from fifteen days prior to the date of consideration of the application committed as a result of the operation of a stage carriage service by the applicant, namely:--
  - i. Plying any vehicle--
    - 1. Without payment of tax due on such vehicle;
    - 2. Without payment of tax during the grace period allowed for payment of such tax and then stop the plying of such vehicle;
    - 3. On any unauthorised route;
  - ii. Making unauthorised trips:  
 Provided that in computing the number of punishments for the purpose of clause (b), any punishment stayed by the order of an appellate authority shall not be taken into account:  
 Provided further that no application under this sub-section shall be rejected unless an opportunity of being heard is given to the applicant.
- 5. Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (d) of section 87 and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded.”

Sub Sections 2 & 3 of Section 81 of the Act supra speaks from the combined reading that notwithstanding a permit may be renewed on an application made not less than fifteen days before the date of its expiry, the Regional Transport Authority or the State Transport Authority, as the case may be, entertain an application for the renewal of a permit after the last date specified in that sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.

Thus this provision enables even after expiry of the period fixed, leave about otherwise to be asked for renewal in advance, for entertaining application for renewal and once the application for renewal entertained even belatedly by virtue of the enabling provision it takes back to the date of expiry of the original permit

period to continue and for all purposes to count to continue therefrom.

In the case on hand, it is the submission that the earlier permit was expired on 31.10.2016. In the written instructions it is mentioned the districts are reorganized in the State of Telangana and came into force from 11.10.2016. The circular instructions speak that it is only once the process of reorganization has been completed then for fresh proposals new district criteria applies and for renewal of the earlier permits concerned, old districts criteria apply. The crux herein is whether by 11.10.2016 the reorganization process has been completed. Once this question requires an enquiry and a finding, the giving of final proceedings that too without even opportunity contemplated by Rule 6 of the Rules supra is per se unsustainable including seizure.

Having regard to the above, the Writ Petition is allowed to release the vehicle subject to the giving of written undertaking by the petitioner of he participate in the enquiry and pay whatever the amount ultimately from enquiry being liable to pay, with a direction to the respondents to conduct the enquiry and complete the process within six (06) weeks from the date of receipt of this order and if the petitioner furnishes such an affidavit of undertaking the vehicle will be released.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

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**JUSTICE Dr. B.SIVA SANKARA RAO**

Date: 28.02.2018

Note: L.R. copy to be marked

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