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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3680/2018**

FRIENDS TOURS & TRAVELS Petitioner

Through: Mr. C. Rajaram and Ms. Shashi
Panwar, Advs.

versus

THE COMMISSIONER & ANR Respondents

Through: Ms. Manisha Handa and Ms. Chirayu
Jain, Advs. for Mr. Ramesh Singh,
Standing Counsel.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **01.05.2018**

CM No. 14626/2018 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 3680/2018 & CM No. 14627/2018 (for stay)

1. Present petition has been filed by the petitioner challenging the order dated March 14, 2018 passed by the State Transport Appellate Tribunal whereby the Appeal No. 2112/2017 filed by the petitioner was dismissed. The submissions made by the petitioner before the Tribunal have been recorded in Paras 1 to 6 of the said order. The conclusion of the Tribunal is at Paras 9 to 12 of the said order, which are reproduced as under:-

“9. According to Section 81(1) of M.V. Act 1988, permit can be renewed for a period of five years only, the same is as under:

*“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 effecting **[from the date of issuance or renewal thereof for a period of five years].***

Provided that where the permit is countersigned under sub-section (1) of section 88, such counter-signature shall remain effective without renewal for such period so as to synchronise with the validity of the primary permit.”

10. Ld. Counsel has relied upon Rule 82(2) of Central Motor Vehicle Rules however even according to that permit can be extended upto nine years. It provided the maximum limit for which a permit can be renewed. Moreover, it is well-settled proposition of law that provisions of Section of main act prevails over the provisions of Rules framed under the act thus as per Section 81 of M.V. Act the permit will be renewed after five years.

11. Hon’ble Supreme Court in case titled M.C. Mehta versus Union of India & Ors. has held as follows:

“(2) Registration of new city taxies shall be permitted only if the vehicles operate on dual fuel or petrol or C.N.G. We make it clear that no vehicle shall be registered as a city taxi if it runs on diesel fuel. The competent authorities shall faithfully comply with this direction.

(3) All existing All India Tourist Permit (AITP) taxies operating in the National Capital Region shall be converted into AITP (O) category and will be allowed to operate until such time their existing permits expire by efflux of time. We make it clear that the registering authority shall not renew such permits once they have expired. We also direct that the permission hereby granted shall be subject to the AITP taxies complying with all Government directives concerning security,

safety and fare issued from time to time.

(4) All new AITP permits will be issued as AITP (N) category permits. These permits shall not authorize the taxis to pick up or drop passengers from point to point within the NCR. The authority issuing the permits shall insist upon an undertaking from the person seeking an AITP permit to the effect that he shall not use the taxi for point to point service within the NCR. This direction shall continue till such time, the Government frame suitable rules to that effect and publish the same in the official gazette.

12. Hon'ble Supreme Court after consideration the grave situation of atmospheric pollution in Delhi issued the directions in the above cited authority. The sum and substance of the authority is to check the increasing level of pollution. It is admitted case of the Appellant that its vehicle is entering in the territory of Delhi / NCR and also taking passenger from Delhi thus there is no merit in the argument that the ratio of law laid down by the Hon'ble Supreme Court in the above cited authority is not applicable to the vehicle of the Appellant. An affidavit is filed on behalf of respondent to the affect that no permit was renewed in contravention of ratio of law laid down by the Hon'ble Supreme Court in the above cited authority. Thus there is no discrimination as claimed by the appellant."

2. The two submissions made by Mr. C. Rajaram, learned counsel for the petitioner are (1) that as in the affidavit of the respondents, which was on record before the Tribunal, it was stated that they are renewing Authorization Certificates every year till the vehicle completes 9 years of its life as envisaged in Rule 82 (2) of CMVR, 1989, similar benefit need to be granted to the petitioner. In other words, it is his submission that as the vehicle of the petitioner would complete 9 years life only in the year 2021,

respondents could not have denied the renewal of the permit / authorization and, (2) the respondents are issuing permits for the new diesel vehicles and there is no reason why the permit be not renewed in the case of old vehicles. He has drawn my attention to registration of one such vehicle with No. DL-1NA-2250.

3. On the other hand, learned counsel for the respondents state, the affidavit which was filed by the respondents before the STAT as referred to by the learned counsel for the petitioner, was in those cases, where the initial permit expired after five years and renewed for a further period of four years till nine years of the life of the vehicle but before the order of the Supreme Court. Since permits have been renewed, which could not have been cancelled midstream, the respondents have rightly issued authorization in those cases. According to her, in the case in hand since the permit of the vehicle had expired after the passing of the order of the Supreme Court and in view of the clear directions of the Supreme Court, the respondents have not renewed the permit. On the other submission of Mr. Rajaram, learned counsel for the respondents state, Supreme Court has not barred the issuance of permits to the new vehicles. She also state, all necessary documents have been submitted by the owner of the new vehicle pursuant to which the permit has been granted.

4. Having heard the counsel for the parties, I agree with the submissions made by the learned counsel for the respondents. The directions of the Supreme Court are very clear. Para 3 of the order reads as under:

“(3) All existing All India Tourist Permit (AITP) taxies operating in the National Capital Region shall be converted into AITP (O) category and will be allowed to operate until such time their existing permits expire by afflux of time. We

make it clear that the registering authority shall not renew such permits once they have expired. We also direct that the permission hereby granted shall be subject to the AITP taxies complying with all Government directives concerning security, safety and fare issued from time to time.

The respondents have rightly not renewed the permit.

5. Further the submission of the counsel for the respondents on the second submission of the counsel for the petitioner is also appealing. I do not see any merit on the two submissions made by Mr. Rajaram. Accordingly, the petition and the connected application are dismissed.

V. KAMESWAR RAO, J

MAY 01, 2018/jg