

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 58 of 2019

- Smt. Kanchan Sharma W/o Murari Lal Sharma Aged About 56 Years R/o - 132, Ward No. - 36, Near Radhakrishna Mandir, New Khursipar, Khursipar Bhilai, District - Durg, Chhattisgarh

---- Petitioner

Versus

1. Union Of India Through Secretary, Ministry Of Road Transport And Highways, Government Of India, New Delhi
2. State Of Chhattisgarh Through Transport Commissioner, Department Of Transport, Mantralaya Mahanadi Bhawan, New Raipur Chhattisgarh
3. Registering Authority/ Regional Transport Officer Durg, District - Durg Chhattisgarh

-----Respondents

For Petitioner	: Shri Anshul R Shrivastava, Advocate
For Respondent/Union of India	: Shri B Gopa Kumar, Assistant Solicitor General
For Respondent/ State	: Shri SC Verma, Additional AG

**Hon'ble Shri Ajay Kumar Tripathi, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**

Per Ajay Kumar Tripathi, Chief Justice

09.01.2019

1. Heard counsel for the parties.
2. The notification dated 29.12.2016 issued by the Union of India bringing about certain amendments in relation to the kind of fee which can be charged for various services, is under challenge.
3. In the present case, we are not concerned about the other fees which have been notified. The issue is limited to Sr. No.11 which deals with grant or refusal of fitness certificate for which the fees fixed is Rs.200/-, however, the note adds that additional fees of Rs.50/- for each day of delay after expiry shall be levied, which is subject matter of challenge.

4. Reliance has been placed by counsel representing the Petitioner on a decision rendered by the Division Bench of High Court of Madras in case of **Chennai City Auto Ootunagral Sangam represented by its Secretary Tamilnadu Driving School owners federation represented by its General Secretary, Madra Metro Auto Drivers Association (Affiliated with AITUC) represented by its General Secretary, Vada Chennai Maavatta Auto Ottunargal Padugappu Nalasangam, represented by its General Secretary, Tamilnadu Lorry Owners Federation represented by its President v. Secretary, Ministry of Road Transport and Highways, Secretary, Home (Transport), Transport Commissioner**, reported in **2017 (3) MadLJ 769**.

5. Vide the above decision dated 03.04.2017, the said notification has been quashed in part and the matter is now awaiting adjudication by the Hon'ble Apex Court in Civil Appeal No.011216 of 2017.

6. In view of the above situation and position, since the final word in relation to the validity of the central notification is yet to come from the Apex Court, this writ application stands disposed off with an observation that the additional fees in terms of Sr. No.11 in relation to the fitness certificate to be levied after its expiry shall remain in abeyance, however, the obligation and the liabilities to pay the same will depend upon the final opinion which may be rendered by the Apex Court in Civil Appeal No.011216 of 2017.

7. The writ application stands disposed off in view of the above.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge