IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.902 of 2019

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Rajendra Singh S/o Late Jagat Singh Resident of Village and Post- Barepur, P.S. Hussainabad, Dist.-Palamu, Jharkhand

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Transport, Govt. of Bihar, Patna
2. State Transport Authority, Bihar, through its Secretary, Office situated at Bishweshariya Bhawan, Baily Road, Patna
3. The Chairman, State Transport Authority, Bihar, Office Situated at Bishweshraiya Bhawan, Baily Road, Patna
4. State Transport Commissioner, Transport Department, Govt. of Bihar, Bishweshraiya Bhawan, Baily Road, Patna
5. Deputy Secretary, Transport Department,Govt. of Bihar, Bishweshraiya Bhawan, Baily Road,Patna

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ajay Kumar Jha
For the Respondent/s : Mr. Anil Kr. Singh

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.

Date : 17-12-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

(I) For issuance of an appropriate writ, rule or direction directing the respondents to countersign the permanent Inter State Stage Carriage permit no.0014/2018(BR) for the route

Garhwa to Sasaram via Garhwa, Parwamore, Chhatarpur, Harihargunj, Amba, Rehala, Aurangabad, Dehri, Sasaram for 1 trip UP and Down trip daily covered with Bus No.JH-03Q 8270 valid w.e.f 09.02.2018 to 08.02.2023, permit granted and issued by State Transport Authority, Jharkhand at Ranchi and accept the tax w.e.f. the date when the authority grant and issue countersignature of the permit.

(ii) To direct the authority not to realise the Road Tax, Additional Tax in respect of the bus covered with permit No.0014/2018 during the period for which the petitioner's Bus No. JH-03Q-8720 did not enter in the State of Bihar in absence of counter signature slip of the aforesaid petitioner's permit and deposited tax in anticipation of the counter signature of the said permit may be adjusted as a current tax in respect of aforesaid bus for the State of Bihar.

(iii) Grant such other relief or reliefs to which the petitioner found entitled in the facts and circumstances of this case."

Briefly stated the facts of the case is that under the reciprocal transport agreement between State of Bihar and State of Jharkhand, a permanent inter state stage carrier permit for the route Garhwa to Sasaram via Garhwa, Parwamore, Chhatarpur for one trip up an down covered with bus no.JH-03Q 8720 w.e.f. 9.2.2018 to 8.2.2023 permit was granted and issued by the office of STA, Jharkhand vide permit no.PSTS No.0014/18.

After issuance of said permit, the office of STA, Jharkhand issued a request letter to STA, Bihar for counter signature of the aforesaid permit vide request letter dated 27.2.18 and petitioner after receipt of request letter, submitted an application in prescribed form along with requisite fee and after deposit of road tax and additional tax submitted his application for counter signature on aforesaid permit in the office of STA, Bihar on 15.3.2018 for which a receipt was also granted, however, upon no action being taken by the STA, Bihar, petitioner submitted another application on 3.10.2018 with all relevant documents but his permit was not countersigned in absence of which, bus of petitioner did not enter State of Bihar as such, petitioner is not liable to pay any tax to the State of Bihar.

Learned counsel for the petitioner relies upon a judgement passed by a Division Bench of this court in Smt. Yamuna Singh Vs. State of Bihar through Principal Secretary, Department of Transport and Ors. since reported in 2016 (2) PLJR 452, in which Division Bench in paragraph nos.11, 12, 14 and 15 has held as follows:-

> "11. So far as the tax on the Transport Vehicles registered outside the State of Bihar is concerned, it has been clearly provided by Section 14 of the Taxation Act that the Transport Vehicle, which has been granted permit by a competent Transport Authority of another State shall not be used or kept for use in Bihar, unless the tax calculated at the appropriate rate specified in Schedule-1 and additional motor vehicles tax as specified in Schedule-II for the entire period for which the permit is valid in the State of Bihar has been paid in respect of the said vehicle. It is thus evident from the said provision that for the entire period of validity of the interstate permit the motor vehicles tax and the additional motor vehicles tax have to be paid with respect to the same before a motor vehicle is used or kept for use in the State of Bihar.
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> 12. The question arises as to what is the period for which interstate permit is valid in the State of Bihar. The answer to the said question is to be found in Section 88(1) of the Motor Vehicles Act, 1988 which clearly provides that a permit granted in any State shall not be valid, unless it is countersigned by the State Transport Authority of that other State. It is, thus, evident that an inter-State permit issued by another Transport Authority, in the present matter, Chhattisgarh State Transport Authority, would not be valid in the State of Bihar until it is countersigned by the Transport Authority of the State of Bihar. The liability of tax under the Taxation Act would, therefore, arise from the date of such countersigning, as clearly provided in Section 14 of the Taxation Act, because only from the date of countersignature the inter-state permit issued by the authority from outside the State of Bihar would be valid within the State of Bihar.
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> 14. So far as the countersignature of the interstate

permit is concerned, it is not the first part of the said Rule 4 which talks of date of acquisition of the vehicle or the date when such tax is imposed by law which shall be the due date for tax payment. The imposition of tax under the Bihar Motor Vehicles Taxation Act would only be effective from the date when the interstate permit would be valid in the State of Bihar which has already been discussed. Thus, in a case of interstate permit there cannot be any levy of penalty until the interstate permit issued by the authorities of the other State is countersigned by the competent authority of the State of Bihar.

15. In the light of the aforesaid discussions, it is evident that the respondent authorities were clearly acting in an illegal and arbitrary manner by denying the benefit of countersignature to the petitioner. The benefit of countersignature was denied solely on the ground that the penalty of Rs. 20,703/- demanded by them had not been deposited by the petitioner, whereas admittedly the petitioner has deposited the entire amount of tax even from 1.12.2012 which, under the law as it stands, she was not liable to deposit for the period from 1.12.2012 till 8.3.2013, yet the countersignature was not made and the petitioner was deprived of the benefit of operating her inter-State permit for such a long period of time on account of the illegal and arbitrary approach and action of the respondent authorities.

The writ petition is disposed of with liberty to petitioner to approach respondent no.4, State Transport Commissioner, Transport Department, Government of Bihar, Bishweshraiya Bhawan, Bailey Road, Patna who shall look into the matter and the reasons for the permit not to be countersigned submitted by petitioner and shall decide the matter within 15 days from the date of receipt/production of a copy of order passed by this Court.

Liberty reserved to the petitioner to approach this Court, if the need so arises subsequently on the same and subsequent cause of action.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.01.2021
Transmission Date	NA