

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (C) NO. 520 OF 2020**

1. Rajesh Dewangan, S/o Ramadhin Dewangan, aged about 52 years, R/o Jayant Mandir, Simga, Tahsil Simga, District Balodabazar-Bhatapara (CG)
2. Rajesh Tiwari, S/o Lalman Tiwari, aged about 40 years, R/o Bemetara, Tahsil and District Bemetara (CG)

... Petitioners**versus**

1. State of Chhattisgarh, through Secretary, Department of Transport, Mahanadi Bhavan, Atal Nagar, New Mantralaya, Raipur, District Raipur (CG)
2. Regional Transport Authority, Durg Division, District Durg (CG)
3. Bhopendra Sahu, S/o Shri Anand Prakash Sahu, R/o House No.81, Nayapara, Ward No.12, Bemetara, District Bemetara (CG)

... Respondents

For Petitioner	:	Mr. Shailendra Kumar Bajpai, Advocate.
For Respondents 1 & 2	:	Mr. P. Acharya, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****05/02/2020**

1. Challenge in the present writ petition is to the order dated 30.9.2019 (Annexure P-1) whereby the respondent no.2, while granting the permit to respondent no.3 for his vehicle No. CG/25F/3819 for routes Raipur to Silhati via Simga, Bemetara, Thankhamariya, Charbhata, Silhati and one return trip daily, had given the State Permit with a different timing than what was proposed by the respondent no.3 in his application for grant of permit.

2. According to the learned counsel for the petitioners, since the proposed timing was not coming as a hindrance to the petitioner, they had not raised any objection, however, the approved timing is different from one which has been proposed, which has caused grievance to the petitioners. According to him, the petitioners were required to have been called upon or given an opportunity to object in respect of change of timing that the respondent no.3 had sought for other than the timing that he had made while seeking the grant of permit.

3. Learned counsel for the petitioners refers to the cases decided by this High Court under the similar circumstances, that are, *WPC No. 1176/2019 (Bharat Singh Rajput v. State of Chhattisgarh & Ors.)* decided on 20.06.2019 and *WPC No. 3519/2018 (M/s. Kanker Roadways v. State of Chhattisgarh & Ors.)* decided on 14.01.2019. Both these writ petitions were allowed and disposed of in the light of the decision rendered in the case of *Durga Motor Service, Ambikapur v. State Transport Appellate Tribunal, CG, Raipur & Ors.* in *WP No. 6057/2006*, decided on 20th of February, 2007, where in paragraphs 3 & 4 it was held as under:

“3. In view of the fact that the petitioner was not heard on the change of timings other than the published timings in the notice, this Court is of the opinion that the interest of justice would be sub-served if the petitioner along with all concerned are given an opportunity for putting forward their cases before the respondent No.2 for reconsidering the order dated 3.4.2006 and pass appropriate order in accordance with law.

4. In view of the aforesaid submissions, the order dated 5.9.2005 (Annexure P/4) and the order dated 3.4.2006 (Annexure P/2) are quashed. The matter is remanded back to the Regional Transport Authority, Chhattisgarh, Raipur to consider this matter afresh, within a period of two weeks, after issuing proper notice to all the concerned. In the meantime, the respondent No.3 would be permitted to operate as per the order dated 3.4.2006.”

4. Given the aforesaid facts and circumstances of the case, particularly taking note of the fact that the sanction has been granted to a different timing than what was proposed and sought for when the application for permit was moved, the present writ petition also deserves to be and is accordingly allowed in terms of the order passed by this Court in the case of *Durga Motor Service, Ambikapur* (supra).

5. Accordingly, the impugned order dated 30.9.2019 (Annexure P-1) is set aside/quashed and the respondent no.2 is directed to reconsider the application of respondent no.3 regarding the timing of operation of the Stage Carriage Permit and the timing be fixed after providing an opportunity of hearing to the petitioners and other concerned parties. Let the same be done within a period of eight weeks from the date of receipt of the copy of this order.

6. At this juncture, learned counsel for the petitioners submits that the State Government subsequently has abolished all the Regional Transport Authorities at different divisional level and have conferred the entire powers upon the Transport Commissioner to act as the Regional Transport Authority for the entire State. Accordingly, the matter would now stand remitted to the Transport Commissioner for further action to be taken.

7. With the aforesaid direction/observation, the writ petition stands allowed and is disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge

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