THE HIGH COURT OF MADHYA PRADESH
W.P. No. 19425/2020
(Smt. Bharti Dubey & another Vs. State of M.P. and others)

Jabalpur
Dated: 17.12.2020

Mr. Rahul Rawat, learned counsel for the petitioners.

Mr. Abhishek Singh, Panel Lawyer for the respondents-State.

Heard.

At the outset, learned counsel for the petitioners submits that this matter is squarely covered by the order dated 5/3/2019 passed in W.P.No. 4466/2019 wherein while deciding the similar issue, this Court has held as under:-

> "Learned Authority has exercised the powers conferred under Rule 77(1-a)(iii) of the M.P. Motor Vehicles Rules, 1994 (in short "Rules, 1994"), which is reproduced below :
>
> "Rule 77, Sub-rule (1-a)- In order to ensure safe, secure and convenient transport services to the passengers, the permit granting authority while granting a stage carriage permit shall abide by the following conditions namely :-
>
> (i) that no stage carriage permit shall be granted on interstate route to a vehicle which has completed 10 years from the manufacture year;
>
> (ii)[xxx]
>
> (iii) that no stage carriage permit shall be granted for any route of the vehicle which has completed (15 years) from the year of manufacture;
>
> (iv) that for long distance route of (more than 75 kms) in a single trip, the following category of vehicles with seating capacity shown against each shall be permitted to ply:-
>
> 1 Deluxe / Air not less than 35+2 seats*[including] conditioned Bus driver and conductor
>
> 2 Express Bus not less than 45+2 seats, *[including] driver and conductor
>
> 3 Ordinary Bus not less than 50+2 seats, *[including] driver and conductor
>
> (1-b) the restriction imposed by sub-rule (1-a), in so far as they relates to the stage carriage registered before coming into force of the said rules shall not apply."

Mr. Ashish Rawat, learned counsel has pointed out that sub-clause (1-b) has been inserted in the M.P.Motor Vehicles Rules, 1994 w.e.f. 28/12/2015, according to which, the provision of sub-rule (1), as it relates to the stage carriage registered before coming into force of said sub-rule, shall not apply. Learned Authority, before passing of the order under sub-rule (1-a)(iii) of the Rules, did not examine the provision of sub-rule (1-b) by which, provision of sub-rule (1-a) of the Rules, has been excluded for the vehicle registered before coming into force of the said rule. Sub-rule (1-a) came into statute w.e.f. 24/11/2010 and the vehicle bearing registration no. MP-20-PA-1077 manufactured in the year 2002 and registered on 22/03/2002.

Admittedly, the provision of sub-rule (1-a) of the Rules, would not apply to the petitioner, hence the impugned order is hereby set aside.

Present petition stands allowed accordingly."

In the considered opinion of this Court the aforesaid order passed in WP No.4466/2019 shall be applicable in the present case also *mutatis mutandis* and the conditions imposed on the petitioners No.1 and 2 regarding non-plying of their 15 years old vehicle bearing registration numbers DL1VA1826 and KL14H2466 respectively are liable to be and are hereby struck down.

As a result the petition stands **allowed** with the aforesaid observations.

C.C. As per rules.

(Subodh Abhyankar)
Judge

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