IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8026 of 2021

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Brij Kishore Tiwary, Son of Late Jagdish Tiwary, resident of Machhagar Lachhiram, Post Office Machhagar Lachhiram, Police Station Hathua, District Gopalganj, Bihar PIN Code 841436.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Transport, Government of Bihar, Patna.
2. The District Transport Officer, Gopalganj.
3. The Superintendent of Police, Gopalganj.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar Sinha 2, Advocate

For the Respondent/s : Mr. Anil Kumar Singh (G.P. 26)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 30-11-2021

Heard learned counsel for the petitioner.

Petitioner has prayed for the following relief(s):-

> "1. For issuance of an appropriate writ order or direction directing and commanding the respondents to forthwith issue entire relevant papers and orders to the petitioner after up-loading entry about onetime payment of Rs. 28406.00 on 21.07.2016 towards Tax for the period 2014 to 2028 in their respective concerned compute data etc. enabling the petitioner in smooth running of his vehicle bearing BR 28 G 0683, which amount the petitioner did not accept even after passing of order in C.W.J.C No. 9714 of 2015 but was accepted after filing and during

> pendency of contempt application bearing M.J.C. No. 1586 of 2016, and, for any other relief or reliefs to which the petitioner is found entitled for."

Briefly stated, the facts of the case is that petitioner is owner of Maxi Cab type four wheeler bearing Chassis No. MAI XA2GHKC5M 18011, Engine No. GHC4L92491 which he purchased on 14.12.2012 on payment of Rs. 4,77,408.13/- which included Rs. 64,450.90/- as VAT amount and petitioner applied for its registration before the District Transport Officer, Gopalganj and was issued registration no. BR 28G 0683 on 23.03.2013 by the D.T.O., Gopalganj on payment of road tax up to period of 10.02.2014 and road tax of Rs. 2122=00 for the period 11.02.2014 to 10.02.2015 was remitted through e-mail filing of Tax on 27.11.2014.

Petitioner approached D.T.O., Gopalganj for one time payment of road tax, however, same was refused on the ground that petitioner is defaulter for the period from 11.02.2014 to 10.02.2015.

Aggrieved by which, petitioner approached this Hon'ble Court in C.W.J.C. No. 9714 of 2015 which was disposed of on 09.09.2015 with a direction to the petitioner to pay one time tax in accordance with the provisions of the amended act at the rate of 7% after excluding the amount already paid by the petitioner, however, D.T.O., Gopalganj did not comply the direction and petitioner was compelled to file contempt being M.J.C. No. 1586 of 2016 in which it was communicated by the respondent that towards one time tax petitioner has to pay amount of Rs. 28,406/- for the period 2014 to 2028 and, accordingly, petitioner deposited said amount on 21.07.2016 and contempt petition was disposed of.

Petitioner thereafter repeatedly approached the D.T.O., Gopalganj for issuance of one time tax token for his vehicle but same was neither issued nor updated in the computer showing payment of one time tax token of Rs. 28,406.00/-, as a result of which, petitioner was subjected to undue harassment and he could not ply his vehicle smoothly on road.

Counter affidavit has been filed on behalf of respondents in which it is stated that in compliance of the order passed by Hon'ble High Court dated 09.09.2015 in C.W.J.C. No. 9714 of 2015 the one time tax of the vehicle Rs. 28,406/- has been accepted and accordingly one time tax taken for the period up to 22.03.2028 has been issued on 13.04.2021

Petitioner in his rejoinder has stated that he was not issued fitness certificate on the ground of non-uploading payment of one time tax and a fine of Rs. 51,550/- was imposed on 03.04.2021.

Respondents in their supplementary counter affidavit has submitted that the fitness certificate was not issued due to non-payment of tax within time and at the relevant time the late fee was Rs. 50/- per day was imposed and accordingly Rs. 51,550/- was imposed as fine against the petitioner. It is further stated that Transport Department, Government of Bihar, Patna issued a letter no. 2427 dated 31.03.2021 by which all defaulter were given incentive and late fee of Rs. 50/- was reduced to Rs. 20 per day and fine of the petitioner was reduced to Rs. 24,060/- which was paid by the petitioner on 04.09.2021 and on same day the certificate of fitness was issued in favour of petitioner.

From the facts enumerated, shows, a very dismal, miserable and discouraging functioning of the D.T.O. office, Gopalganj, emerges.

In view of amended provision of Bihar Motor Vehicle Taxation Act, petitioner was permitted to avail the benefit of payment of one time tax @ 7% of the cost of the vehicle excluding the VAT amount which was to be levied at the time of registration for a period of 15 years and on assurance given by the State of Bihar, the earlier writ petition was disposed of with liberty to petitioner to pay the differential amount, however, same was never disclosed to the petitioner and he had to file contempt petition in which the differential amount was disclosed as Rs. 28,406/- and petitioner paid the amount on 21.07.2016 and contempt petition was accordingly disposed of but thereafter neither tax token was issued to him nor payment of tax was uploaded on website of the department as a consequence of which fitness certificate was not provided to petitioner rather a penalty of Rs. 51,500/- was imposed which was subsequently reduced as Rs. 24,060/- and same was paid by the petitioner on 04.09.2021.

Petitioner shall file a detailed representation before the Transport Commissioner, who shall personally enquire into the allegations made by petitioner against D.T.O., Gopalganj of his high handedness and misuse of official position leading to his undue harassment, hardship, mental torture and agony and, on enquiry, if Transport Commissioner comes to a conclusion that petitioner was made to suffer and was forced to pay Rs. 24,060/- for grant of fitness certificate, then said amount shall be refunded to the petitioner and deducted from the salary of the D.T.O., Gopalganj, and, if on enquiry, D.T.O., Gopalganj is found to have misconducted himself, appropriate disciplinary proceeding shall be initiated against him.

The writ petition is allowed to the extent as indicated above.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.12.2021
Transmission Date	NA