IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 3331 of 2021

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Koshi Commissionary Bus Owner Association, through its Secretary, Sandeep Kumar Mishra, aged about- 41 years, Male, Son of Sri Gajendra Mishra, Resident of Kayastha Tola, Ward No 30, P.O+ P.S+ District- Saharsa, Bihar.

.... PETITIONER

Versus

1. The State of Bihar through the Secretary, Department of Transport, Government of Bihar, Patna, office situated at Biseshwaraiya Bhawan, Baily Road, Patna.
2. State Transport Commissioner, Transport Department, Government of Bihar, Patna, office situated at Biseshwaraiya Bhawan, Baily Road, Patna.
3. Officer on Special Duty, Transport Department, Government of Bihar, Patna, office situated at Biseshwaraiya Bhawan, Baily Road, Patna .

…………… Respondents

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Jha, Advocate
		Mr. Sunil Kumar Gupta, Advocate
For the Respondent/s	:	Mrs. Anuradha Singh, S.C. 21

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

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 23-06-2021

Petitioner has prayed for the following relief(s):

(i) To hold and declare that the gazette notification No.-02/Tax/Fee-03-2020-5125, Trans, Transport department dated 30.6.2020 (Annexure-1) published in Bihar Gazette with the seal and signature of Secretary, Transport Department, Government of Bihar whereby and where under the said authority in exercise of the power conferred under Section 15(1) read with proviso of Section 23 of Bihar Motor Vehicle Taxation Act,1994, considering the impact of the Nationwide Lockdown due to the COVID-19 pandemic, provides a 40% tax rebate and exemption of penalty charges on payment of quarterly taxes applicable for the period 21.03.2020 to 30.06.2020 for commercial passenger and goods vehicles registered in the State of Bihar if the payment is made by 31.07.2020, in place of 100% tax rebate for the aforesaid period is quite unreasonable, discriminatory and violative of Article 14 of the Constitution of India, because during the said period, the commercial passengers vehicle of the members of Petitioner's Association absolutely not used the public road due to complete nationwide Lockdown and order issued by the State Government for stoppage of operation of commercial passenger vehicle. The aforesaid notification is also discriminatory because in similar circumstances several other States of the country exempted 100% tax rebate for the aforesaid Lockdown period and by not allowing 100% tax exemption during the said period, the respondent State violating Article 14 of the Constitution of India. The aforesaid notification is also against the law laid down by Hon'ble Apex Court reported in AIR 1975 SC page 17, AIR 2000 SC page 2175 and AIR 1981 SC 1636.

A copy of gazette notification No.-02/Tax/Fee-03-2020-5125,Trans, Transport department dated 30.6.2020 is annexed herewith and marked as **Annexure-I** to this petition.

(ii) To issue a suitable direction to the respondent State to modify the aforesaid Notification by providing 100% tax exemption for the period from 21.3.2020 to 24.8.2020 and to adjust the advance tax paid by the members of Petitioner's association in future tax (i.e next quarter of due tax) because the members vehicle could not operate on public road during the said period due to order/ direction of the State Government in terms of Central Government guideline of COVID-19 Pandemic.

(iii) That the respondent state may further be directed to extend the date for depositing the current tax without any late fine or penalty charge for current period of tax since the vehicle of the members of petitioner's association could not operate on the public road till 24.8.2020 and the transport business is badly affected for long closure of bus service.

(iv) And / or pass such other order or orders as deem fit and proper in the interest of justice as well as public also.

Learned counsel for the petitioner prays that the instant petition be disposed of exactly in the same terms as contained in the judgment dated **4th of February, 2021** passed by this Court in **C.W.J.C. No. 7511 of 2020,** titled as **Bihar Motor Transport Federation Through its Vice President,**

Chandra Bhushan Sharma Vs. The State of Bihar & Ors.

No objection to such prayer being allowed.

As mutually agreed, the instant petition stands disposed of in terms of the judgment dated **4th of February, 2021** passed by this Court in **C.W.J.C. No. 7511 of 2020,** titled as **Bihar Motor Transport Federation Through its Vice President, Chandra Bhushan Sharma Vs. The State of Bihar & Ors.,** and the directions contained therein shall also govern the instant case *mutatis mutandi*.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/PKP-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	