

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2693 of 2020

- Smt. Jagriti Mishra W/o Late Abhishek Garg, Aged About 24 Years, R/o Railway Station Road, Vishrampur, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Transport Department, Mahanadi Bhawan, Mantralaya, Nawa Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Appellate Authority-Cum-Additional Transport Commissioner Chhattisgarh, Atal Nagar, Nawa Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. The Registration Authority and Regional Transport Officer, Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
4. Smt. Neeta Garg W/o Late Anant Garg R/o Vishrampur, Tahsil Vishrampur District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- Respondents

For Petitioners – Shri Goutam Khetrapal, Advocate.

For State/Respondents No.1 to 3 – Shri Ashish Tiwari, Govt. Advocate.

For Respondents No.4 – Shri Priyank Rathi, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10-11-2021

1. It is submitted that this petition has been brought being aggrieved by the order dated 21-09-2020 passed by the Appellate Authority-cum-Additional Transport Commissioner, Chhattisgarh, Raipur.

2. It is submitted that the petitioner had an order in her favour passed by respondent No.3 dated 17-08-2020. The respondent No.4 filed appeal against that order before respondent No.2. The appeal memo very clearly mentions the name of the petitioner as the only respondent. The petitioner never received any notice of the said appeal and thus she was never given any opportunity of hearing and the impugned order was passed. The impugned order very clearly reflects that in the place of respondent's name the name of this petitioner is not

mentioned and on the contrary, it is the name of registration officer which is shown. However, the order passed is clearly against the petitioner. Hence, the principle of natural justice has not been followed and neither the procedure as provided has been followed in passing the impugned order. Hence, it impugned order be set aside and the case be remanded back to the appellate authority, i.e., respondent No.2 with direction to decide it afresh after giving opportunity of hearing to the petitioner and interest of the petitioner may also be protected until the appeal is decided by respondent No.2 after remission of the appeal case.

3. Leaned counsel for the State appearing for respondents No.1, 2 and 3 makes formal objection.

4. Learned counsel for respondent No.4 concedes that the case may be remanded to the appellate authority for afresh decision on the appeal. It is further submitted that the status at present with respect to the dispute between the parties cannot be determined, therefore, no protection order should be passed.

5. Heard learned counsel for the parties and perused the documents.

6. Considered on the submissions. On perusal of the impugned order (Annexure-P/1) which is dated 21-09-2020 it is very much clear that its cause title shows the name of respondent No.3 as the only respondent, whereas, the copy of the appeal memo filed shows the name of the petitioner as respondent. As it has been conceded by the respondent side, therefore, there is no dispute present that the petitioner was never served with any notice regarding filing of this appeal nor she was given any opportunity of hearing before passing of the impugned order. Hence, on the basis of this submission, this petition is disposed off at motion stage. The impugned order is set aside and the appeal case is remitted back to the appellate authority, i.e., respondent No.2 with a

direction to decide the appeal case afresh after affording proper opportunity of hearing to the petitioner. Respondent No.2 is also directed to decide the appeal as early as possible preferably within a period of 75 days. It is also ordered that in the meanwhile, the status quo as of today shall be maintained by both the parties until the period of 75 days. It is also made clear that this Court has not expressed anything on merits of the case, therefore, the learned appellate authority shall not be guided by any of the observations made in this order while deciding the appeal of the respondent.

Sd/-

(Rajendra Chandra Singh Samant)
Judge