

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7161 of 2022

M/S Ashish Motors through one of its Partner Namely Vinay Agarwal (Male), aged about 59 Years, Son of Late Ram Sharan Agarwal, Resident of Ram Krishna Mission Road, P.S.-Katihar, District-Katihar. At Present Resident of N-4, 3rd Floor, Kailash Colony, P.S.-Greater Kailash-1, District-South Delhi, New Delhi-110048.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Transport Department, Government of Bihar, Patna.
2. The Transport Commissioner, Government of Bihar, Patna.
3. The Deputy Secretary, Transport Department, Government of Bihar, Patna.
4. The District Transport Officer, Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate Mr. Anish Kumar, Advocate Mr. Shankar Kumar Choudhary, Advocate Mr. K. C. Jha, Advocate, Advocate
For the Respondent/s	:	Mr. Rohitabh Das, AC to AAG-10

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

Date : 27-07-2022

Heard learned counsel for the parties.

The petitioner has prayed for the following relief/s :-

- (i) For quashing the letter bearing memo no. 585/ पं. dated 24.03.2022 **(Annexure-8)** issued by the Respondent No. 4 whereby and whereunder he has rejected the objection filed by the petitioner and further demanded to pay deficit Trade Fee Certificate of Rs. 7,59,500 /- for 15190 motorcycles in terms of letter bearing memo no.173/ पं. Katihar dated 23.02.2021.



- (ii) For quashing the letter bearing memo no. 452/परि० Katihar dated 07.03.2022 (**Annexure-6**) issued by the Respondent No. 4 asking the petitioner to deposit the sum of Rs. 7,59,500/- in

terms of letter bearing memo no. 173 परि० dated 23.02.2021 towards the Trade Certificate @ Rs. 50 /- each motorcycle for total number of 15190 motorcycles sold by the petitioner during the year 2012-13.

- (iii) For declaration that the demand notice bearing memo no. 173 परि० dated 23.02.2021 is itself barred by law of limitation and the same is a dead claim and any demand on basis of such belated notice by the Respondent No. 4 is itself bad in law and cannot be acted upon.

- (iv) For quashing the show cause notice bearing Memo No. 173/परि० dated 23.02.2021 (**Annexure-2**) issued by the Respondent No. 4 asking the petitioner to deposit sum of Rs. 7,59,500/- towards Trade Certificate Fee @ Rs. 50/- each motor cycle for total number of 15,190 motorcycle sold by the petitioner during year 2012-13.

- (v) For further declaration that the show cause notice bearing Memo No. 173/परि० dated 23.02.2021 issued by the Respondent No. 4 against the Petitioner is itself not maintainable in terms of the



provisions of Motor Vehicle Act, 1988 read with Central Motor Vehicle Rules, 1989.

- (vi) For direction to the Respondent No. 4 to recall / set-aside the impugned demand notice bearing memo no. 173/११११ dated 23.02.2021 as the same is not maintainable in the eyes of law and same is also barred by law of limitation.
- (vii) For any other relief/reliefs to which the petitioner is entitled to in the facts and circumstances of the present case.

We are of the considered view that the impugned order dated 24th of March, 2022, passed by respondent No.4, namely, the District Transport Officer, Katihar (Annexure -8, Page -66), needs to be quashed and set aside, moreso, for the reason that the authority has not only passed the order in violation of the order passed by this Court in CWJC No. 14682 of 2021, titled as M/S Ashish Motors Vs. the State of Bihar and Ors. (Page-62), but also each one of the contentions raised by the petitioner has neither been referred to nor dealt with

As such, on this short ground alone, we quash and set aside the order dated 24th of March, 2022, passed by respondent No.4, namely, the District Transport Officer, Katihar (Annexure -8, Page -66) directing the authority concerned to pass a detailed order containing reasons adequate enough justifying passing of



the order be it any which way.

Petitioner shall make himself available with the authority on 12th of August, 2022 and within two months therefrom the order shall be passed.

The order assigning reasons must be communicated to the petitioner

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2022
Transmission Date	NA

