

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7571 of 2022

M/s Durgeshwari Motors Sale unit- Durgeshwari Bajaj, Ruidhasa, Kishanganj- 855107 (Bihar) through its proprietor Prasenjeet Dey (Male) Son of Sri Paritosh Dey, Resident of Hospital Road, Kishanganj, P.O. and P.S. Kishanganj and District Kishanganj.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Transport Department, New Delhi.
2. The State of Bihar through the Secretary, Transport Department, Government of Bihar, Patna.
3. The Transport Commissioner, Government of Bihar, Patna.
4. The Deputy Secretary, Transport Department, Government of Bihar, Patna.
5. The Deputy Secretary, Transport Department, Government of Bihar, Patna.
6. The District Certificate Officer, Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ramesh Kumar Agrawal, Advocate
For the Respondent/s	:	Dr. K.N. Singh, Additional Solicitor General Mr. Anshay Bahadur Mathur, CGC

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

Date : 22-06-2022

Heard learned counsel for the parties.

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

“(i) For declaration that Rule 81 of the Central Motor Vehicle Rules, 1989 as existed prior to the amendment dated 29.12.2016 is ultra-virus the main Act that is Motor Vehicle Act, 1988 and thus the Constitution of India.

(ii) To hold that no demand of any fee relating to trade certificate can be made for the period prior to 29.12.2016 as the old rule has been substituted by the new Rule 81 of the Central Motor Vehicle Rules, 1989 vide a notification bearing No. GSR 1183(E) dated 29.12.2016 (Annexure-5) without having any saving clause under the amendment dated 29.12.2016.

(iii) To issue a writ of mandamus/certiorari quashing all impugned action/demands raised in respect of grant or renewal of trade certificate in respect of each vehicle as stipulated in Rule 81 of the Central Motor Vehicle Rules, 1989 as existed prior to the amendment made vide amendment dated 29.12.2016 is bad in law.

(iv) To further hold that Rule 81 of the Central Motor Vehicle Rules, 1989 is in direct conflict with Rule 34 of the Central Motor Vehicle Rules, 1989 as the said Rule 34 speaks about class of vehicle and whereas pre-amended Rule 81 states about each vehicle for which the fee structure has been prescribed.

(v) For holding that only one trade certificate in a year is required by the petitioner dealer under the provisions of the Central Motor Vehicles Rules, 1989 for dealing in motorcycle as a class of vehicle and not for each motorcycle.

(vi) For any other relief/reliefs to which the petitioner is entitled to in the facts and circumstances of the present case.”

After the matter was heard for some time, finding the Bench not to be in favour with the submissions made across the Bar, learned counsel for the petitioner, under instructions, states that the petition, in its present form, may be permitted to be withdrawn reserving liberty to file a fresh petition with better

particulars on the same and subsequent cause of action, if so required and desired.

Prayer allowed.

Petition is disposed of as withdrawn with the liberty aforesaid.

As and when any such petition is filed, Registry shall process it immediately and have it listed before the appropriate Court.

Also, liberty reserved to the petitioner to take recourse to such other remedies as are otherwise available in accordance with law.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	