

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

PUBLIC INTEREST LITIGATION NO.96 OF 2018

Mr. Brijbhushan Shyamnarayan Tiwari
and another ... Petitioners

- Versus -

The Ministry of Road Transport and
Highways and others ... Respondents

Ms. Shiba Thakur, Advocate h/f Shri S.S. Sanyal, Advocate for
Petitioners.

Ms. A.S. Khandare, Advocate h/f Ms. Neerja Chaubey, Advocate
for Respondent No.1.

Mrs. K.S. Joshi, I/c. Government Pleader for Respondent Nos.2
to 5.

Shri J.S. Mokadam, Advocate for Respondent No.6.

Shri R.S. Kalangiwale, Advocate for Respondent No.7.

**CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.**

DATE : 14 FEBRUARY 2022

P.C. :

This petition filed in public interest raises issues regarding preliminary test for grant of Learning Licence and actions of the Officers of the Respondent Transport Authorities being contrary

to the Rules. The Petitioners have styled themselves as public spirited persons. They have sought enquiry into the actions of the Officers of the Respondent Regional Transport Office, Nagpur and with certain allegations against Respondent No.7, the Petitioners have sought an enquiry against him.

2) According to the Petitioners, the Respondent Transport Authorities are not adhering to the provisions of the Central Motor Vehicles Rules, 1989 and more particularly in respect of Rules 10 and 11. According to the Petitioners, the methodology adopted by the Respondent Authorities for grant of Learning Licence is perfunctory and under a mode called "VIP mode", the test, which normally takes a substantial time, is disposed of in a very short time. The Petitioners have stated that there are large number of such cases and, therefore, enquiry needs to be conducted.

3) The petition is filed in the year 2018. The Respondents have filed their two reply-affidavits. The affidavit on behalf of Respondent Nos.2 to 4 is filed by the Regional Transport Officer, Nagpur. As regards the methodology adopted, he has stated that a computer based Learning Licence test, i.e. Screen Test Aid for Learner Licence (STALL) is developed by National Informatics Centre and all Transport Officers conduct the said test. He has

stated that a web system, called Sarathi is a computerised database of all driving licences and Applicant can apply from anywhere for driving licence appointment. This Respondent has specified the test as regards Learning Licence, where questions are asked at random. Circulars have been issued by the Respondent No.3 in March 2015 to clear the backlog of pending applications.

4) The Respondent No.5 Inspector of Police, Economic Offences Wing has filed an affidavit stating that a complaint in the Office of Commissioner of Police was filed regarding irregularities in the Regional Transport Office and the enquiry was initiated. He has stated that in that enquiry, report is forwarded to the Assistant Commissioner of Police, Nagpur City and Commissioner of Transport, Mumbai. It is also stated that report is received from Cyber Cell and First Information Report is lodged. The Respondent No.7 has filed an affidavit denying the allegations made against him by the Petitioners.

5) The public interest litigation, therefore, is in respect of two parts. First, the Learning Licence, which is governed by the Central Motor Vehicle Rules, 1989 and second, the irregularities for which prosecution is sought.

6) As regards aspect of Learning Licence is concerned, it goes without saying that action of the Respondents will have to be as

per Rules as long as the Rules govern and are not set aside. It is not possible for this Court to monitor individual aberration of the Rules. System is developed by National Informatics Centre whereby process is made online. Merely by initiating further process and enquiry in this petition would not result in curbing breach of the Rules. Therefore, we are of the opinion that the responsibility of ensuring that the Officers of the Road Transport Department do not deviate from the Rules needs to be placed on the superior Authority in the Department having administrative control, which would be Respondent No.3 Maharashtra State Transport Commissioner. If the Petitioners or any other citizen have a grievance regarding breach of procedure, they shall first address the same to the Respondent No.3, who will look into the same and take necessary action.

7) As regards criminal prosecution is concerned, the reply filed by the Respondent No.5 discloses that investigation was carried out and First Information Report (C.R. No.633/2019) has been lodged against 9 Officers and 7 Agents. It is also stated that the Commissioner of Police has transferred the investigation to the Economic Offences Wing. Therefore, cognizance of this also has been taken by the Police Authorities. It is not possible for us to monitor the investigation as the accused made therein are also entitled to the fair procedure. Therefore, we observe that

investigation so launched will be taken to its logical end as per law.

8) It is four years since the Petitioners have filed this public interest litigation. There have been substantial developments thereafter. While we dispose of the public interest litigation, we observe that if the Petitioners have any other general grievance, they may bring it to the notice of the Respondent No.3 as stated above, so also any other citizen.

9) With above observations, the public interest litigation stands disposed of.

(ANIL L. PANSARE, J.)

(NITIN JAMDAR, J.)

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