IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6123 of 2022

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Bihar Motor Transport Federation through its Divisional President, Satya Prakash @ Chandan Singh, male, aged about 42 yars, S/o Late Vijay Kumar, Resident of 301, R.P. Tower, Fraser Road, P.S.- Patna Kotwali, District- Patna.

... ... Petitioner/s

Versus

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

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	None
For the Respondent/s	:	Mr. Sarvesh Kumar, GP-24

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-07-2023

Consistently, none appeared for the petitioner. Even today, there was no appearance when the matter was called from the list and even when it was called after keeping it aside for hearing. We have gone through the memorandum of writ petition and heard the learned counsel for the State.

2. The petitioner a federation of Motor Transport Operators within the State of Bihar, seeks to challenge

Annexure-P/1 Notification issued by the State of Bihar granting relaxation to tax levied on commercial passenger vehicles to the extent of 40% for the period 21.03.2020 upto 30.06.2020. The petitioner's contention is that during the said period there was a complete lock down to arrest the spread of COVID 19 and no commercial passenger vehicles were allowed to operate during the said period. It is also the case of the petitioner that many States granted 100% exemption and in that circumstance, even the State of Bihar ought to have granted full exemption of the tax liability for the period when there was complete lock down due to COVID 19 Pandemic. The petitioner also contends that even when there was a relaxation of lock down, there was a condition that only 50% capacity should be allowed in commercial passenger vehicles, which necessitates a proportionate reduction in the tax liability.

3. Reliance is also placed on Annexure-P/3 Notification issued by the Ministry of Road Transport and Highways, Union of India where suspension of tax liability and relief to the commercial vehicles, which are non-operational in the circumstances of the pandemic was made operational.

4. The exemption to be granted to the tax liability is clearly within the exclusive premise of the State Government;

which power has been exercised and a notification issued for exemption. It is not for this Court, under Article 226 of the Constitution of India, to extend the relaxation as has been done by the other States. We also have to notice that there is a provision in the Motor Vehicle Taxation Act and the Rules by which an operator could have garaged the vehicle and filed an application in the prescribed form for exemption of tax. The tax imposed on the vehicles is also not for operation of the vehicles, but for keeping the vehicle fit for operation on the roads of the State. Merely because there was a lock down, it cannot be presumed that there was no operation conducted by the vehicle owners nor that the stipulation for 50% capacity was scrupulously followed.

5. We find no reason to entertain the writ petition. Accordingly, the same is rejected.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	20.07.2023
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