

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17818 of 2023

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1. Dharmendra Kumar Son of Ram Ekbal Ray, Resident of Village- Baigna, Post- Pindauli, P.S.- Aurai, District- Muzaffarpur.
 2. Piyush, Son of Mithlendra Kumar Ray, Resident of Village- Madhaw Nagar, Post- Morsand, P.S.- Runnisaidpur, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Transport Department, Government of Bihar, Patna.
3. The State Transport Commissioner, Transport Department, Government of Bihar, Patna.
4. The Secretary, State Transport Authority, Bihar, Patna.
5. The Commissioner-cum- Chairman, Regional Transport Authority, Muzaffarpur.
6. The Additional Collector, Revenue-cum- Member, Regional Transport Authority, Muzaffarpur.
7. The Joint Commissioner-cum-Secretary, Regional Transport Authority, Muzaffarpur.
8. The District Transport Officer, Muzaffarpur.
9. Manoj Kumar Yadav, male, aged about 52 years, Son of Late Chandeshwar Rai at Bibiganj, Bhagwanpur, P.S. Sadar, Muzaffarpur, District-Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pushpendra Kumar Singh
For the State	:	Mr. Subhash Pd. Singh (Ga3)
For Respondent No. 9	:	Mr. Mukesh Singh, Adv.
	:	Mr. Shiopujan Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 23-09-2024

Heard the learned counsel for the parties.

The present writ petition has been filed for the following

reliefs:-

“(1) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the item no. (vii) of proceeding of Regional Transport Authority Muzaffarpur of



the meeting dated 31.10.2023 contained in memo no.1378 dated 03.11.2023 and its Appendix issued under the signature of the Respondent no.5, so far it relates to the petitioners, whereby and where under a decision was taken for rejection of application of the petitioners for renewal of permit of vehicle of the petitioner no.1 bearing Reg. No. BR06PC-6218 and petitioner no.2 bearing Reg. No. BR30P-9541, BR30P-9768 and BR30P-9621 merely on the ground that the revenue of Rs.25 Lacs has been due against the vehicles runs under the banner of Piyush Travels notwithstanding the fact that there is no due of any kind of revenue of vehicles belonging in the name of the petitioners.

(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the Challans dated 06.11.2023 and 07.11.2023 issued under the signature of the Respondent no.8 whereby and where under the Respondent no.8 was pleased to award penalty /fine of Rs.10,000/- each vehicles of the petitioner no.1 bearing Reg. No. BR06PC-6218 and petitioner no.2 bearing Reg. No. BR30P-9541, BR30P-9768 and BR30P-9621 for breach of permit condition notwithstanding the fact that after the refusal of renewal of permit by the petitioners, the vehicles of the petitioners were /are parked in the premises of the petitioners.

(III) For issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the Respondent Authorities to renew the permit of the vehicles of the petitioner no.1 bearing Reg. No. BR06PC-6218 and petitioner no.2 bearing Reg. No. BR30P-9541, BR30P-9768 and BR30P-9621 on the ground that there is no due of any kind of revenue against the vehicles belonging in the name of the petitioners.

(IV) For issuance of any other appropriate writ/writs order/ orders, direction/directions for which the writ



petitioners would be found entitled under the facts and circumstances of the case.”

3. Learned counsel for the petitioners has stated that the respondents without any authority have passed the impugned order rejecting the renewal of the permits of the vehicles of the petitioners on the ground that the vehicles owned by some other persons are due some amounts to the Government/ Department and all are running under the very same banner of Piyush Travels. Learned counsel has stated that the petitioner Nos. 1 & 2 are the individual owners of the following buses;

1. BR06P-6218

2. BR06P-6451

3. BR06C-9721

4. BR30PA-0782

5. BR30P-0784

6. BR30PA-0821

7. BR30PA-1640

8. BR30P-9541

9. BR30P-9768

10. BR30P-9621

4. That merely because the vehicles are running under a single banner of Piyush Travels, and the dues of the other individual owners are not paid cannot be a ground for the rejection of the application for renewal of the permits of the petitioners. Further, it is stated that after the order of rejection was passed, the



petitioners have not been plying the vehicles and they are parked at one place without conducting any business, but, the authority concerned have illegally imposed the penalty of Rs. 10,000/- on each of the buses. The act of the respondents in imposing the penalty is not only illegal, contrary to the facts of the case but an arbitrary exercise of powers. Learned counsel has relied on the judgment of this Hon'ble Court passed in CWJC No. 10259 of 2023 dated 23.01.2024 in support of his case. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition and grant the relief sought.

5. During the pendency of the present writ petition, the respondent No. 9, whose vehicles have been awarded the routes for which permit of the petitioners has not been renewed, has filed an intervening application which was numbered as I.A. No. 02 of 2024 and the same was allowed vide order dated 13.05.2024.

6. Learned counsel appearing on behalf of the respondent No. 9/intervenor has vehemently opposed the relief sought for in the present writ petition and stated that the respondent No. 9 has been awarded the routes and, therefore, the relief sought for in the present writ petition has become infructuous. Further, it is stated that on the complaint made by the respondent No. 9 only the authorities have initiated the enquiry



and found out that the petitioners have been running the buses under the banner of Piyush Travels and there are many other buses which are running under the same banner and which belong to the other family members of the petitioners and they owe more than Rs. 25,00,000/- to the Government/ Department. That once the renewal of permits of the petitioners are rejected and the routes are allotted to others, the relief sought for in the present CWJC cannot be granted and the learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

7. Learned counsel appearing on behalf of the respondent-State has also opposed the present writ petition on the ground that in case the petitioners are aggrieved by the non-renewal of the permit, they have the remedy of approaching the appellate authority under Section 89 of the Motor Vehicle Act, 1988. It is stated that the State Transport Tribunal is functional and the petitioners have to approach the tribunal if they have any grievance with the non renewal of the permits. That the petitioners without availing the alternative and efficacious remedy of filing a statutory appeal has straightway approached this Hon'ble Court, that the same has to be depreciated and the writ petition has to be dismissed.



8. As seen from the pleadings and the record, the only reason for rejecting the renewal of the permit of the petitioners is on the ground that the other individual owners who the running the buses under the banner of Piyush Travels are due an amount of more than Rs. 25,00,000/-. Under similar circumstances, this Court relying on the judgment of this Hon'ble Court passed in CWJC No. 3096 of 1996 dated 23.08.1996, has held as under;

“However, learned Government Pleader No. 9 when questioned, he could not satisfy me whether in view of the Motor Vehicle Act and the Rules made thereunder such direction could have been issued by the State Transport Commissioner to the effect that the petitioner's application for renewal of the permit shall not be granted or the grant of permit shall be cancelled even if the petitioner is himself not a defaulter but any of his family members is and/or are defaulters in respect of other permits granted in their favour which he has not concerned. Regard being had to the above position, I am of the opinion that the impugned order cancelling permit for non-payment of tax by other members of the family in respect of other vehicles cannot be sustained in law. Accordingly, this writ petition is allowed and the impugned order as contained in Annexure-8 is quashed.”

9. Further, the Hon'ble Supreme Court in the case of ***Mithilesh Garg and Ors. Vs. Union of India (UOI) and Ors.*** reported in ***1992 1 SCC 168*** has held as under;

“(9) Article 19(1)(g) of the Constitution of India guarantees to all citizens the right to practice any profession, or to carry on any occupation, trade or business subject to reasonable restrictions imposed by the State under Article 19(6) of the Constitution of



India. A Constitution Bench of this Court in Saghir Ahmad v. State of U.P. held that the fundamental right under Article 19(1)(g) entitles any member of the public to carry on the business of transporting passengers with the aid of vehicles. Mukherjea, J. speaking for the Court observed as under: (SCR p. 708)

“Within the limits imposed by State regulations any member of the public can ply motor vehicles on public road. To that extent he can also carry on the business of transporting passengers with the aid of vehicles. It is to this carrying on of the trade or business that the guarantee in Article 19(1)(g) is attracted and a citizen can legitimately complain if any legislation takes away or curtails that right any more than is permissible under clause (6) of that article.

It is thus a guaranteed right of every citizen whether rich or poor to take up and carry on, if he so wishes, the motor transport business. It is only the State which can impose reasonable restrictions within the ambit of Article 19(6) of the constitution of India. Sections 47(3) and 57 of the old Act were some of the restrictions which were imposed by the State on the enjoyment of the right under Article 19(1)(g) so far as the motor transport business was concerned. The said restrictions have been taken away and the provisions of Sections 47(3) and 57 of the old Act have been repealed from the statute book. The Act provides liberal policy for the grant of permits to those who intend to enter the motor transport business. The provisions of the Act are in conformity with Article 19(1)(g) of the Constitution of India. The petitioners are asking this Court to do what the Parliament has undone. When the State has chosen not to impose any restriction under Article 19(6) of the Constitution of India in respect of motor transport business and has left the citizens to enjoy their right under Article 19 (1) (g) there can be no cause for complaint by the petitioners.”

10. This Hon'ble Court in CWJC No. 10259 of 2023

dated 23.01.2024 has held as under;



“7. Having regard to the above, this Court has to necessarily set aside the impugned order holding that renewal of license cannot be rejected, if any amounts are payable to some other third party. The authorities cannot act on the letters written by the third party. The authorities are governed by the provisions of the Motor Vehicle Act and the rules framed thereunder and there is nothing in the act or rules which prohibits the authority from renewing the licence on the ground that the petitioner is due some amount to 3rd party.”

11. That in so far as the prayer of the respondent No. 9

that the present writ petition may be dismissed as the respondent No. 9 has been granted the permit for the very same routes for which the petitioners have not been given renewal is concerned, it is to be noted that the Hon’ble Supreme Court in the case of **Poonam Vs. State of Uttar Pradesh and Ors.** reported in **2016 (2) SCC 799** has held as under;

“48. A few examples can be given so that the position can be easily appreciated. There are provisions in some legislations pertaining to Gram Panchayat or Panchayat Samiti where on certain grounds the competent authority has been conferred the power to remove the elected Sarpanch or the Chairman, as the case may be on certain counts. Against the order of the Collector, an appeal lies and eventually either a revision or a writ lies to the High Court. After his removal, someone by way of indirect election from amongst the members of the Panchayats or the Panchayat Samiti is elected as the Sarpanch or the Chairman. The removed Sarpanch assails his order of removal as he is aggrieved by the manner, method and the reasons for removal. In his eventual success, he has to hold the post of the Sarpanch, if the tenure is there. The question, thus, arises whether the person who has been elected in the meantime from amongst the members of the Panchayat Samiti or Sabha is a necessary party. The answer has to be a



categorical “No”, for he cannot oppose the order of removal assailed by the affected Sarpanch nor can he defend his election because he has come into being because of a vacancy, arising due to different situation. 49. In the instant case, Shop No. 2 had become vacant. The appellant was allotted the shop, may be in the handicapped quota but such allotment is the resultant factor of the said shop falling vacant. The original allottee, that is, the respondent, assailed his cancellation and ultimately succeeded in appeal. We are not concerned with the fact that the appellant herein was allowed to put her stand in the appeal. She was neither a necessary nor a proper party. The appellate authority permitted her to participate but that neither changes the situation nor does it confer any legal status on her. She would have continued to hold the shop had the original allottee lost the appeal. She cannot assail the said order in a writ petition because she is not a necessary party. It is the State or its functionaries who could have challenged the same in appeal. They have maintained sphinx like silence in that regard. Be that as it may, that would not confer any locus on the subsequent allottee to challenge the order passed in favour of the former allottee. She is a third party to the lis in this context.”

12. Therefore, it cannot be said that the respondent No. 9 has any vested right to operate the buses as a matter of right. The grant of the routes to the respondent No. 9 are the result of the non-renewal of the permits in favour of the petitioners, which is a subject matter of this CWJC. The renewal of the permit cannot be denied, merely because, the petitioners are running the buses under the banner of Piyush Travels and other owners running under the very same banner are due some amounts. Nothing prevents the respondents from taking necessary against the persons who are due some amounts to the Government/ Department. Even if the



contention of the respondents that the Piyush Travels is being run under single banner by the members of a single family, the same cannot a ground for not renewing the permits of the petitioners. Admittedly in the present case, all the buses are registered in the name of the individual owners and it is not the case of the respondents that the buses belong to the same firm or organization.

13. Having regard to the above mentioned facts and circumstances, the impugned order dated 03.11.2023 as well as order dated 01.02.2024 are set aside. The penalty of Rs. 10,000/- imposed by the authorities is also set aside. The present writ petition is accordingly allowed directing the respondent authorities to consider the application for renewal of the permit of the petitioners as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order.

14. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.10.2024.
Transmission Date	NA

