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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2591/2017
AMIT KUMAR

.....Petitioner

Through: Mr. Vishal K. Panwar, Mr.
Prashant Kumar, Ms. Geeta, Mr.
Rajesh Joon, Mr. Prateek
Aggarwal, Advocates.

versus

STATE TRANSPORT AUTHORITY & ORSRespondents

Through: Mr. Dhananjaya Mishra and Mr.
Navneet Dogra, Advocate.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
22.10.2024

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1. The petitioner has filed this petition under Article 226 of the Constitution for a direction against the State Transport Authority to transfer a stage carriage permit and vehicle to the petitioner in terms of his application dated 02.06.2011.

2. The respondents originally issued a stage carriage permit under Sections 71 and 72 of the Motor Vehicles Act, 1988 [“the Act”] on 21.06.2001 to one Mr. Rampal Singh [“the original permit holder”]. The permit was valid until 20.06.2011, and was in respect of a light passenger vehicle bearing No. DL1V7936. The original registration certification of the vehicle stated that its fitness was valid up to 20.06.2005, which was extended until 20.06.2011.

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3. On 02.06.2011, the petitioner made an application to the State Transport Authority for transfer of the permit to his name. The record reveals that the original permit holder and the petitioner both appeared before the concerned Authority, and the file was placed before the Secretary of the State Transport Authority on 20.06.2011, when the life of the vehicle was going to expire. The application was rejected on this ground.

4. The petitioner made further representations, which were also rejected. The petitioner's first representation was rejected on 29.08.2014 on the ground that the case seemed to be one of trading in the permit. A speaking order of rejection dated 04.05.2017 has been placed on record alongwith the respondents' counter-affidavit, which relies upon a meeting of the Board of the State Transport Authority dated 16.05.2016, stating that the petitioner's request had already been considered and rejected by the competent Authority. The Secretary, State Transport Authority, was directed to review the application and pass a speaking order. By the order dated 04.05.2017, the Authority has recorded that the policy of transfer of permit does not allow the transfer of the said vehicle.

5. The arguments of learned counsel for the petitioner are based on Section 81 and 82 of the Act, which read as follows:

“81. Duration and renewal of permits.—(1) A permit other than a temporary permit issued under Section 87 or a special permit issued under sub-section (8) of Section 88 shall be effective from the date of issuance or renewal thereof for a period of five years:

Provided that where the permit is countersigned under sub-section (1) of Section 88, such counter-signature shall remain effective without renewal for such period so as to synchronise with the validity of the primary permit.



(2) A permit may be renewed on an application made not less than fifteen days before the date of its expiry.

(3) Notwithstanding anything contained in sub-section (2), the Regional Transport Authority or the State Transport Authority, as the case may be, may entertain an application for the renewal of a permit after the last date specified in that sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.

(4) The Regional Transport Authority or the State Transport Authority, as the case may be, may reject an application for the renewal of a permit on one or more of the following grounds, namely—

(a) the financial condition of the applicant as evidenced by insolvency, or decrees for payment of debts remaining unsatisfied for a period of thirty days, prior to the date of consideration of the application;

(b) the applicant had been punished twice or more for any of the following offences within twelve months reckoned from fifteen days prior to the date of consideration of the application committed as a result of the operation of a stage carriage service by the applicant, namely—

(i) plying any vehicle—

(1) without payment of tax due on such vehicle;

(2) without payment of tax during the grace period allowed for payment of such tax and then stop the plying of such vehicle;

(3) on any unauthorised route.

(ii) making unauthorised trips:

Provided that in computing the number of punishments for the purpose of clause (b), any punishment stayed by the order of an appellate authority shall not be taken into account:

Provided further that no application under this sub-section shall be rejected unless an opportunity of being heard is given to the applicant.

(5) Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (d) of Section 87, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded.

82. Transfer of permit.—(1) Save as provided in sub-section (2), a permit shall not be transferable from one person to another except



with the permission of the transport authority which granted the permit and shall not, without such permission, operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorised by the permit.

(2) Where the holder of a permit dies, the person succeeding to the possession of the vehicle covered by the permit may, for a period of three months, use the permit as if it had been granted to himself:

Provided that such person has, within thirty days of the death of the holder, informed the transport authority which granted the permit of the death of the holder and of his own intention to use the permit:

Provided further that no permit shall be so used after the date on which it would have ceased to be effective without renewal in the hands of the deceased holder.

(3) The transport authority may, on application made to it within three months of the death of the holder of a permit, transfer the permit to the person succeeding to the possession of the vehicles covered by the permit:

Provided that the transport authority may entertain an application made after the expiry of the said period of three months if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.”

6. Mr. Vishal K. Panwar, learned counsel for the petitioner, submits that, in accordance with these statutory provisions, the petitioner and the original permit holder made the application for transfer on 02.06.2011, which was not considered until 20.06.2011 because the concerned official was on leave. He submits that the rejection of the application on 20.06.2011, on the ground that it has been placed before the officer on the last day, is misconceived as the petitioner had in fact applied well in advance. He further submits that a conjoint reading of the said provisions would show that renewal could be applied for, either for replacement of the vehicle or with the original vehicle, if the life of the vehicle remained available, after the transfer was effected. He contends that the rejection of the application for transfer, in these circumstances, deprived the



petitioner of a valuable right to seek renewal of the permit upon expiry.

7. Mr. Dhananjaya Mishra, learned counsel for the respondent, on the other hand, draws my attention to a judgment of the Supreme Court dated 16.12.1997 in *M.C Mehta v. Union of India & Ors.* [W.P.(C) 13029/1985, reported as (1998) 1 SCC 676]. By the said judgment, the Supreme Court issued various directions relating to commercial vehicles, including the following:

“1. After hearing the learned amicus curiae, the Additional Solicitor General and the counsel representing certain other interests, we issue the following further directions, namely:

xxx

xxx

xxx

(3) The grantee of a permit cannot (without express prior permission), under the provisions of the Motor Vehicles Act, either transfer his permit or allow some other person to operate a vehicle on this permit. Any such use of permits — which really constitutes a trading in permits — is a patent violation of the Motor Vehicles Act and the Rules and would render the permit liable to cancellation, apart from other legal consequences. We direct authorities not to renew any permit which has been or is being used by any person other than the original grantee, without the express prior permission of the grantee.”

8. Mr. Mishra also cited an order of this Court dated 18.08.2011 in W.P.(C) 5795/2022 [*Amit Sharma and Anr v. Govt. of NCT and Anr.*], which dealt with the requirement of transparency in issuances of stage carriage permits. Paragraph 7 of the said order reads as follows:

“7. The writ petition is therefore disposed of with the direction that in future no passenger stage carriage permits be granted/allotted whether under a scheme or otherwise, without advertising the same, so as to let all desirous of applying therefor, know of the availability thereof and without giving equal opportunity to all concerned.”

9. Mr. Mishra argues that the petitioner’s application for transfer, even if it was considered on 02.06.2011 when it was made, could not have been allowed, as the Supreme Court had specifically directed that no



permit could be renewed if it was being used by any person other than the original grantee without the express prior permission of the grantee.

10. The contention of the petitioner, challenging the original reason given for rejection of his license, i.e., that the application was placed before the concerned Authority on the last day of the original license, appears to be valid. The record itself reveals that the application was made on 02.06.2011, but not considered due to the absence of the concerned officer, who was on leave.

11. However, I am of the view that this is not dispositive of the matter. The rejection of the petitioner's application, even if the application was considered on 02.06.2011, was not arbitrary or unreasonable. The petitioner's application was made only eighteen days before the expiry of the license, when the life of the vehicle itself would also have expired. The petitioner did not make any application for replacement of the vehicle. The writ petition also does not demonstrate any relationship between the petitioner and the original permit holder, which would cast a doubt upon the finding of the Authority in the noting dated 03.09.2014, that the case appeared to be one of trading. The purpose of permitting transfer and renewal of permit, as held by the Supreme Court in *M.C. Mehta (supra)*, cannot extend to permitting "*trading in permits*". In the present case, the case of the petitioner was that the vehicle and the permit were being transferred to him, a mere eighteen days before the expiry of the vehicle's registration and the permit. Such a course does not appear *prima-facie* to be reasonable.

12. It is pointed out by Mr. Mishra that, after the petitioner's application was first rejected in 2011, a policy has in fact been framed by



the respondents on 10.02.2012, with regard to replacement, transfer, and renewal of stage carriage permits, which, *inter-alia*, restricts the replacement to the case of the permit holder and his/her heirs, and also permits transfer and renewal only in favour of the original grantee or his/her heirs. While a provision was made for renewal after expiry in certain limited cases, this was also limited to cases where the original grantee or his/her heirs sought renewal.

13. The policy, having been framed after the petitioner's application, cannot be applied strictly to the petitioner's case. However, for the reasons stated above, I am of the view that the decision of the Authority, not to permit transfer of the permit in favour of the petitioner at the stage when the application was made, was not unreasonable or arbitrary, so as to invite the interference of the writ Court.

14. The petition is, therefore, dismissed, but with no orders to costs.

PRATEEK JALAN, J

OCTOBER 22, 2024
SS/