IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14572 of 2015

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Rajiv Kumar Jha S/o Shyama Kumar Jha R/o Ramesh Jha Road, Ganjala, P.S. Saharsa, Distt. Saharsa.

... ... Petitioner/s

Versus

1. The State Of Bihar through Secretary Transport, Government of Bihar, Patna
2. District Magistrate, Supaul.
3. District Transport Officer, Supaul.
4. Smt. Neelam Devi W/o Late Ramesh Mishra
5. Deepak Mishra S/o Late Ramesh Mishra R/o Tiwari Tola, P.O., P.S. and District Saharsa.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pravin Kumar Sinha, Advocate
For the State	:	Mr. Sarvesh Kumar Singh, AAG 13

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT
Date : 23-06-2025

1. The petitioner has filed the Writ petition for the following reliefs:

> *"(i) ..... for quashing the order dated 28.01.2015 (contained in Annexure-11) and also the order passed by the appellate authority under the Motor Vehicle Act i.e. learned Collector, Supaul, dated 9.6.15 (contained in Annexure-12).*
>
> *(ii) For grant of such other relief or reliefs as the Hon'ble Court may deem fit and proper in the interest of justice.*

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2. The brief facts as culled out of the Writ petition are that the petitioner was the owner of a bus bearing Registration No. DL 1 PA 0368 and had paid all applicable taxes, up to date. The husband of Respondent No. 4, i.e, father of Respondent No. 5 purchased the aforesaid bus for a total consideration of Rs. 3,05,000/- On 23.01.2006, he paid Rs. 2,05,000.00 and thereafter took possession of the vehicle and began to operate it. On 28.07.2006, he paid the remaining amount of Rs. 1,00,000.00. On the same date, the sale was completed, and the petitioner also signed all relevant documents for the transfer of the vehicle bearing Registration No. DL 1 PA 0368 in the name of Ramesh Kumar Mishra. On that date itself, he sworn an affidavit to the effect that:-

"यह कि दिनांक 23.01.2006 से ही गाडी का परिचालन मेरे देख-रेख में हो रहा है इसलिए गाडी पर किसी तरह का दिनांक 23.01.2006 से केस मुकदमा, टैक्स, विगा एवं अन्य गाडी से जुडा है उसकी जिमेवारी मेरी है।"

3. It is further contended that the petitioner and the husband of respondent No. 4

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(new purchaser) submitted relevant documents for transfer of the vehicle and requested for a receipt but the DTO office refused, citing the absence of a system for issuing receipts for such transfers. However, a certified copy obtained later (Annexure-1 series) confirm that the said documents were indeed received by the DTO, Supaul. After submission of all necessary papers and fees, the petitioner presumed the transfer process would be completed in due course. However, upon visiting the DTO office on 17.12.2009, he discovered the transfer had not been effected. On inquiry, he was assured by the then DTO that the matter would be promptly addressed. An endorsement was made by the DTO on the petitioner's application dated 17.12.2009 (Annexure-2), a certified copy of which is available in the DTO’s office records.

4. Following this, the DTO issued a notice to Ramesh Kumar Mishra, calling upon him to explain why, despite having purchased the vehicle on 28.07.2006, he deposited the tax on

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14.02.2007 in the name of the seller. He was directed to appear before the DTO on 17.02.2010. The DTO, instead of taking appropriate action, appeared to favour the purchaser by merely questioning his action, despite being aware that tax payments in the name of the previous owner are standard, until official transfer is recorded. It is respectfully submitted that such conduct reflects ignorance of the provisions under the Bihar Motor Vehicle Taxation Act, 1994, as published in the Bihar Extraordinary Gazette dated 26.04.1994.

5. It is further submitted that upon learning that no effective action had been taken by the District Transport Officer (DTO) and only repeated letters were being issued, the petitioner again visited the DTO office and requested prompt action. Subsequently, the DTO issued Memo No. 225 dated 18.08.2010, referring to earlier letters dated 17.02.2010 and 04.06.2010, and directed Ramesh Kumar Mishra to appear on 30.08.2010. Again, Memo No. 53 dated 28.04.2011 was issued, asking Ramesh Kumar Mishra to appear on

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14.03.2011. Meanwhile, the DTO also issued a notice to the petitioner, stating that although the vehicle had been sold on 28.07.2006, tax had only been deposited up to 14.02.2007, and directed him to appear on 17.02.2010.

6. In response, the petitioner submitted a written explanation, stating that the vehicle was sold to Ramesh Kumar Mishra on 28.07.2006, and all required documents were submitted to the DTO on 01.08.2006, along with tax paid up to 14.08.2006 and the transfer fee of Rs. 300.00. He further clarified that tax from 15.08.2006 to 14.02.2007 was deposited by the purchaser in the seller’s name, as the ownership transfer had not yet been effected. The petitioner only learned of the non-transfer on 17.12.2009 and since then actively pursuing the matter. The DTO issued Memo No. 146 dated 13.05.2010, and summoned both parties to appear on 04.06.2010. The petitioner appeared and submitted a written statement reiterating the facts. Certified copies of all documents submitted were later issued to the

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petitioner by the DTO office.

7. Another Letter contained in Memo No. 54 dated 28.02.2011 was served on the petitioner, informing him that although he had appeared earlier, the purchaser had not and the petitioner was directed to appear again on 14.03.2011. Accordingly, the petitioner appeared on the said date and submitted a detailed written reply stating that all required documents and up-to-date tax were submitted on 01.08.2006. The petitioner emphasized the delay was due solely to inaction by the DTO and non-cooperation from the purchaser. As per Section 13 of the Bihar Motor Vehicles Taxation Act, 1994, liability of paying arrears for after the date of affidavit and document submission (i.e., 01.08.2006) rests with the purchaser. Due to the DTO's failure to effect the transfer, tax continued to be paid in the petitioner's name. Despite repeated notices, the purchaser failed to appear, while the petitioner remained present on every occasion.

8. Ultimately, finding the DTO office

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favoring the purchaser and failing to take effective action—while contemplating raising tax demands against the petitioner—the petitioner filed C.W.J.C. No. 234 of 2013 before this Hon'ble Court. This Court on considering the contentions and merits of both the parties passed a detailed order dated 15.12.2014 in CWJC No. 234 of 2013. For better appreciation of the fact, the relevant part of the aforesaid order is quoted hereinbelow:

> "The document produced by the petitioner as contained in Annexure-1 Series, which are certified copy of the documents issued by the D.T.O., Supaul himself, would leave nothing for speculation that the records of the application of the petitioner as produced now by D.T.O., Supaul was not correctly maintained in the office of the D.T.O., Supaul. This is a matter of serious concern and the State Transport Commissioner must address himself to the issue in hand by initially holding an enquiry and if necessary starting a departmental proceeding against all the District Transport Officers who had remained posted as a District Transport Officer,

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Supaul in between 1.8.2006 to the present D.T.O., Supaul for fixing responsibility as to the reason for keeping the application of the petitioner for transfer pending from 1.8.2006. This court infact cannot even conceive of a situation where an application for transfer of a vehicle would remain pending for a period over eight years.

Coming to the order in question dated 11.12.2014, this Court will have no difficulty in holding that this order passed in hurry by the present District Transport Officer, Supaul cannot be sustained as it is bad both on fact and in law. The same is, accordingly, hereby quashed and the matter is remitted back to the District Transport Officer to hear the petitioner as also the purchaser or his legal heir and representative, inasmuch as, this Court has been informed that the original purchaser has already died.

This Court would, accordingly, direct the petitioner to appear before the District Transport Officer, Supaul on 5.1.2015 along with all the records and the District Transport Officer, Supaul who thereafter must pass his fresh final order within a period of one month after

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affording an opportunity of hearing to the petitioner and the purchaser.

With the aforementioned observation and direction, this application is disposed of."

9. It is submitted by learned counsel for the petitioner that, in compliance with the order dated 15.12.2014 passed in CWJC No. 234 of 2013, the petitioner appeared before the District Transport Officer, Supaul and submitted all documents available with him.

10. The DTO, Supaul, for the first time, vide order dated 28.01.2015 (pursuant to the Court's direction), claimed that certain documents were not submitted. However, prior to this, despite repeated appearances and written applications by the petitioner, the DTO never indicated that the transfer could not be processed due to missing documents. Further, during the lifetime of the purchaser, no such objection was raised.

11. It is submitted that the DTO disregarded the affidavit filed by the purchaser,

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wherein he undertook full responsibility for dues and liabilities from the date of purchase (Annexure-1 series). The petitioner submits that the DTO acted with bias, ignoring documents submitted by the purchaser and unjustifiably attempting to shift blame onto the petitioner.

12. Aggrieved by the said order, the petitioner preferred an appeal before the Collector, Supaul.

13. The Collector, by order dated 09.06.2015, dismissed the appeal, observing that if the vehicle was sold on 28.07.2006, tax should not have been paid up to 17.02.2007 in the petitioner's name. The petitioner submitted that this reflects a misinterpretation of law. Under Section 5 of the Bihar Motor Vehicles Taxation Act, 1994 and the affidavit submitted by the purchaser, the liability shifts to the purchaser. However, unless registration is formally transferred, tax payment in the seller's name continues by default. This procedural reality appears to have been overlooked by the authorities.

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14. The non-appearance of the purchaser's legal heirs before the DTO cannot be held against the petitioner. The purchaser had already submitted the required documents and affidavit. As per the definition of "owner" under the Bihar Motor Vehicles Taxation Act, 1994, **"Owner" means every registered owner or the person having possession or control of the motor vehicle.** Hence, the liability post-sale lies with the person in possession, i.e., the purchaser or his legal representatives.

15. In the instant case, the purchaser has already given an affidavit before the DTO, that he is in possession of the vehicle which is under his control, which reads as follows:-

"यह कि दिनांक 23.01.2006 से ही गाडी का परिचालन मेरे देख-रेख में हो रहा है इसलिए गाडी पर किसी तरह का दिनांक 23. 01.2006 से केस मुकदमा, टैक्स, बिमा एवं अन्य गाडी से जुड़ा है उसकी जिम्मेवारी मेरी है।"

16. The contents of the purchaser's affidavit clearly indicate that he had possession and control over the vehicle and was liable to pay

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all taxes. Accordingly, from 23.01.2006, the liability stood transferred to the purchaser. However, for reasons best known to the authorities, they failed to properly consider the facts and the applicable legal provisions.

17. The petitioner has no other efficacious alternative remedy, he was constrained to file the present writ petition for appropriate relief.

18. A detailed counter affidavit was filed on behalf of the respondents contending that taxes were paid by the petitioner up to 14.02.2007, which contradicts his claim of having possession of the vehicle on 23.01.2006. The affidavit allegedly executed by the purchaser was never affirmed before the authorities, despite repeated notices. The purchaser never appeared personally, casting serious doubt on the affidavit’s authenticity. Neither the petitioner nor the purchaser submitted essential documents such as residential proof, voter identity card, or the purchaser’s photograph, which is mandatory for processing vehicle transfer.

19. Mere submission of transfer form by

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the seller and purchaser is insufficient. Both are required to appear personally before the District Transport Officer (DTO), Supaul. Despite several notices, the purchaser failed to appear, raising suspicion and obstructing the transfer process. Due to prolonged delay and the purchaser's continuous absence, multiple notices were issued to both parties for clarification. However, the purchaser remained absent, and this irregular conduct further hindered the process. The DTO, upon learning that the petitioner claimed to have sold the vehicle on 28.07.2006 while continuing to pay tax until 14.02.2007, rightly called upon the petitioner to explain the discrepancy. The petitioner responded on 17.02.2010, but the purchaser's failure to appear created doubts about the transfer. As the purchaser or his legal heirs never appeared before the DTO or the Collector, Supaul, despite repeated notices, the affidavit's reliability was in question. Hence, the DTO could not rely solely on it to effect the transfer. It is noteworthy that during the pendency of the

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petitioner's application, a pleader's notice dated 06.09.2011 was served upon the DTO by the petitioner, stating that the vehicle had been sold to a *kabari* (scrap dealer) and the same was dismantled, further complicating the matter. Pursuant to the Hon'ble Court's order dated 15.12.2014, the DTO reinitiated the hearing process, issued fresh notices to the purchaser's heirs, but they too failed to appear. In light of continued non-appearance, and after affording multiple opportunities, the DTO found the matter suspicious and, vide order dated 28.01.2015, rejected the petitioner's transfer application. During the inquiry, it was also found that Shri Krishna Kumar Yadav, then Head Clerk, had unduly delayed placing the petitioner's application before the DTO. Disciplinary proceedings were recommended against him by letter no. 5027 dated 09.10.2015. A report was submitted to the Registrar, Patna High Court, via letter no. 5117 dated 15.10.2015 by the Additional Secretary, Transport Department, Bihar.

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20. The authorities consistently required the physical appearance of the purchaser and the submission of all necessary documents, which was never complied with, and the affidavit alone could not be relied upon in law. The Collector, Supaul, by a reasoned order dated 09.06.2015, considered all aspects and rightly dismissed the petitioner’s appeal.

21.Heard the Learned counsel for the parties and perused the record of the case.

22. It is apparent that the vehicle was sold on 28.07.2006, the application was submitted on 17.12.2009, the prescribed fee was deposited on 31.07.2006, and taxes were paid up to 14.07.2007. It appears that the respondent Transport Department has been sitting tight over the matter, and there is no fault on the part of the petitioner. Accordingly, the impugned order dated 28.01.2015, contained in Annexure-11, is hereby quashed.

23. Accordingly this Writ application is allowed.

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24. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

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CAV DATE	NA
Uploading Date	11.07.2025
Transmission Date	

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