

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10573 of 2024**

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Abhijit Kumar S/o Sri Rashtrapati Kumar Sinha Resident of A-603, New Judges Residential Complex, Sinha Library Road, Chhajjubagh, Patna-800001.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar , New Secretariat , Patna , Bihar.
2. The Secretary, Department of Transport, Government of Bihar, Patna.
3. The District Transport Officer, Patna.

... ... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ankit Katriar  
For the Respondent/s : Mr. Government Pleader 27

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

**Date : 16-07-2025**

Heard the learned counsel for the parties.

The present writ petition has been filed for the following

relief(s):-

*“1. That this is an application praying for issuance of a writ in the nature of a writ of certiorari or any other appropriate writ / order / direction upon the respondent statutory authorities to produce, before this Hon'ble Court, the circular / letter no. 7640, dated 01.12.2021, issued by the Secretary, Transport Department, Bihar, by which District Transport Officers have been directed to first ascertain as to whether the Government employees, applying for Bharat (BH) series number, could be transferred outside the State of Bihar or not, and thereafter to set aside / quash the same by holding it to be illegal, arbitrary and unconstitutional inasmuch as the same is in derogation to the relevant Rules promulgated by the Government of India under a Central Act The Petitioner also prays for*



*issuance of a writ in the nature of a writ of mandamus or any other appropriate writ / order / direction upon the respondent statutory authorities to grant registration to the Petitioner's newly purchased vehicle (Mahindra XUV700) under the BH-Series, in consonance with the mandate of the Central Motor Vehicles (Twentieth Amendment) Rules, 2021.*

*The Petitioner further prays for issuance of any other appropriate writ / direction / order in the facts of the case to ensure timely and effective consequential relief to the Petitioner."*

3. The following relief(s) has been added by I.A. No. 01 of 2024.

*"1. That the Petitioner has preferred the above mentioned writ application for issuance of a writ in the nature of a writ of a mandamus or any other appropriate writ / order / direction for quashing the order bearing memo no. 8712, dated 18.09.2024, issued by Respondent No. 3 (i.e. DTO, Patna), whereby the Petitioner's application for grant of Bharat Series (hereinafter referred to as "BH-Series") registration for his vehicle (Mahindra XUV700 AX7 AT) was rejected in a perfunctory and mechanical manner, based on completely non-est grounds. It is further prayed for issuance of a consequential writ in the nature of a writ of mandamus or any other appropriate writ or direction commanding the respondents to restore the Petitioner's application and grant allowance for the same."*

4. It is the case of the petitioner that he is working as a Judicial Officer of the Bihar Superior Judicial Service in the rank of District Judge (Entry Level) and he is currently posted as the 15<sup>th</sup> Additional District & Sessions Judge-cum-Special Judge, NIA



& ATS, Bihar, Patna. That the petitioner has purchased a new vehicle and wanted to get the Bharat Series (BH-Series) number for his vehicle and to that effect an application was made. That the petitioner along with the application has submitted the necessary documents with the requisite fees however, instead of granting the BH-Series to the petitioner, the petitioner has received a letter from the office of the District Transport Officer, Patna. The DTO, Patna wanted to ascertain as to whether the government employees like the petitioner who are applying for BH-Series will be transferred outside the State of Bihar or not. That in response to the said letter, the petitioner has replied that the judicial officers of Bihar are likely to be transferred outside the State of Bihar. Thereafter, the application of the petitioner was rejected *vide* Letter No. 8712 dated 18.09.2024.

**5.** Learned counsel appearing on behalf of the petitioner has vehemently argued that the Rule 47 of the Central Motor Vehicle Rules, 1989 referred as Central Motor Vehicles (28<sup>th</sup> Amendment Rule, 2021) has been amended, whereby any person can apply under the BH-Series. That as per the said rule, the petitioner was obligated to furnish his official Identity Card and except the same, there was no other legal impediment for issuing the BH-Series to the vehicle purchased by the petitioner. Learned



counsel has further stated that the petitioner who is working in the level of District Judge is likely to be deputed to other States and, therefore, the authorities cannot refuse to grant the BH-Series to the petitioner. That once the rules have been made by the Central Government, the authorities by issuing Office Memos/ rules contrary to the original amendment cannot deny the BH-Series Registration on one pretext or the other. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition set aside the order dated 18.09.2024 in Letter No. 8712 and consequentially direct the authorities to issue the BH-Series vehicle number to the petitioner on his application.

**6. *Per contra*,** the learned counsel appearing on behalf of the respondent-State has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the State of Bihar has implemented the applicability of BH-Series vehicles *vide* notification dated 25.11.2021. That as per the notification dated 25.11.2021, the State Government has issued guidelines to all the District Transport Officers *vide* Letter No. 7640 dated 01.12.2021 (Annexure-B). That as per the direction issued by the State Government, the DTOs are bound to ensure that the conditions are met before registration of the vehicle under



BH Series. That as per Para No. 2 of the letter dated 01.12.2021, it has been stated as under;

"सरकारी कार्यालय में कार्य करने वाले आवेदक को अधिकारिक पहचान पत्र (official identity Card) दिये जाने की अनिवार्यता है। अत उन्हे BH-Series से पूर्व अधिकारिक पहचान पत्र (official identity Card) एवं आधार कार्ड स्वअभिप्रमाणित छायाप्रति प्राप्त करते हुए मूल प्रमाण पत्र मिलान किया जाय। साथ ही जिला परिवहन पदाधिकरी यह संतुष्ट हो ले कि सरकारी कार्यालय में कार्य करने वाले संबंधित आवेदक का बिहार राज्य के बाहर अन्य राज्य में, स्थांतरण हो सकता है।"

7. Further, it is stated that though the petitioner has filed his application for seeking grant of BH-Series on 12.06.2024, the petitioner has been unable to place anything on record to show that the petitioner is likely to be transferred outside of the State of Bihar. Further, in the Counter-affidavit at Para No. 15, it is stated that the DTO, Patna duly taking into consideration all the relevant facts has come to the conclusion that the petitioner is unlikely be transferred outside the State of Bihar and therefore, his application was rejected *vide* Memo No. 8712 dated 18.09.2024 (Annexure-E).

8. Admittedly, in the present writ petition, the only question is as to whether the petitioner is entitled to grant of BH-Series registration for his vehicle or not. The fact that the petitioner is working in the Bihar Judiciary has not been denied by the authority, the authority has rejected the application made by



the petitioner solely on the ground that the petitioner is not likely to be transferred outside the State of Bihar.

**9.** The Rule 47 of the Central Motor Vehicle Rules, 1989 referred as Central Motor Vehicles (28<sup>th</sup> Amendment Rule, 2021) have been amended whereby the following amendment was made;

**"1. Short title and commencement.**-(1) These rules may be called as the Central Motor Vehicles (Twentieth Amendment) Rules, 2021.

(2) They shall come into force with effect from the 15th day of September, 2021.

In the Central Motor Vehicles Rules, 1989 (hereinafter referred to as the said rules), in rule 47, in sub-rule (1), after clause (c), the following clauses shall be inserted, namely:

(ca) working certificate in Form 60, in case the applicant working in private sector applies for BH-Series registration mark;

(cb) Official Identity Card, in case the applicant working in Government office applies for BH-series registration mark;

3. In the said rules, in rule 48, after sub-rule (1), the following proviso shall be inserted, namely:-

"Provided that, in case of application for registration of vehicle under BH-Series, opted voluntarily by the vehicle owner, the registration mark shall be generated randomly through the portal after verification of working certificate in Form 60 or Official identity card, as the case may be, by the registering authority."

**10.** A Division Bench of the Hon'ble Bombay High Court under similar circumstances in writ petition No. 4165 of 2024 dated 12.04.2024 has held as under;

**"16.** Having heard the learned counsel for the parties and having perused the documents on



record, we may at the outset observe that the Central Government has framed the Rules in question which govern the registration of the vehicles under the BH Series. Such Rules are framed in exercise of the powers conferred under clause (a), (d), and (p) of Section 64 of the Central Motor Vehicles Act, 1988. we have noted the relevant rule being Rule 2(cb) of the said Rules, which would apply to the petitioner's case, which provides that the applicant seeking registration of his/ her vehicles would be required to *inter alia* furnish an Official Identity Card, that he is in the service of the State Government. It is not in dispute that the petitioner submitted his Official Identity Card as required under the Central Rules. Nevertheless, the registration of the petitioner's vehicle under the BH Series has been denied.

27. We also find that in the year 2017, a Division Bench of this Court in Shivpujan Kumar S/o Gopikisan Singh & Anr. vs. The State of Maharashtra & Ors.<sup>7</sup> was confronted with an issue as to whether the State Government had the statutory power to impose the eligibility conditions. The Division Bench, rejecting the stand taken by the transport department, observed that, unless there is a specific provision under the said Act or under the Rules framed in exercise of the powers under the Act, empowering the State Government to prescribe any qualifications for the applicants who wanted to apply for Contract Carriage Permits, in respect of auto rickshaws, the State Government could not have lawfully imposed the conditions as impugned in such proceedings. The Court observed that the State Government is under a mandate to act within four corners of the said Act and the Rules framed thereunder. It was also observed that nothing prevented the State Government from exercising the Rule making power, if it was otherwise permissible in law, for empowering the Transport Department to impose such condition, as a condition precedent for grant of permit. It was observed that, only by giving an excuse of public interest, the State Government cannot circumvent the provisions of the said Act and the Rules framed thereunder. The ratio of such decision is squarely applicable in the facts of the present case as we are more than certain that the Transport



*Commissioner has acted wholly without jurisdiction in issuing the Circular in question.*

28. 28. Mr. Dande would also be justified in relying upon the decision of the Supreme Court in Pancham Chand and Others vs. State of Himachal Pradesh and Others<sup>8</sup> wherein the Supreme Court, in the context of the issue which had arisen under the Motor Vehicles Act, had observed that the Act is a self contained Code. All the authorities mentioned therein are statutory authorities. They are bound by the provisions of the Act. They must act within the four corners thereof. It was observed that the State, although, had a general control, but such control must be exercised strictly in terms of Article 162 of the Constitution of India. It was held that all governmental orders must comply with the requirements of a statute as also the constitutional provisions, as the Constitution envisages a rule of law and not rule of men. The observation as made by the Supreme Court in paragraph 18 of the report are certainly applicable in the facts of the present case.

29. In the light of the aforesaid discussion, to us, it is clear that the petitioner's legal rights to be entitled to have a registration for his vehicle under the BH series have been completely negated by the impugned action taken by respondent nos.1 to 3. the impugned action in denying such registration is wholly without jurisdiction. Further, referring to the impugned Circular, the petitioner was denied registration of his vehicle under the BH Series. As held by us the impugned Circular, in law, has no legs to stand, hence, the same could not have been foisted on the petitioner."

**11.** Further, another Division Bench of the Karnataka High Court in Writ Appeal no. 191 of 2023 and Writ Appeal No. 196 of 2023 dated 27.07.2023 has held as under;

"23. Thus, even in the instant case, in view of the notification issued by the MORTH providing for registration of motor vehicles under BH Series and framing/ amending corresponding rules under Central



*Motor Vehicles Act (20<sup>th</sup> Amendment) Rules, 2021 which also provide for principle for motor vehicle tax, as noted above, it is not available for the State Government to content that it would not implement the notification. Such a stand is not justified or supported by any provisions of law."*

**12.** It is common knowledge that the judicial officers whether they belong to the cadre of Civil Judges (Junior or Senior) or rank of District Judge can be deputed to other States or Organizations/ Government Departments like Ministry of Home Affairs, Ministry of Law and Justice, National Human Rights, commission to the Hon'ble Supreme Court of India, Central Administrative Tribunals located outside the State and many other Tribunals which are spread across the country. There is absolutely no embargo that the judicial officers of one State cannot be deputed or transferred to other institutions located in other States. The conclusion arrived by the DTO, Patna that the petitioner is not likely to be transferred outside the State of Bihar is without any legal basis and contrary to the well established norms.

**13.** Having regard to the judgments of Hon'ble Bombay High Court as well as the Hon'ble Karnataka High Court, this Court is of the opinion that the impugned order dated 18.09.2024 passed in Letter No. 8712 is without any legal basis and the same is contrary to the provisions of the Central Act. The authorities cannot create any impediments in granting the BH Series to the



petitioner contrary to the provisions of the Act. The writ petition is allowed setting aside the order dated 18.09.2024 passed in Letter No. 8712 and consequently directing the authority to process the application of the petitioner and granting him the BH Series number 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/-

<b>AFR/NAFR</b>	NAFR
<b>CAV DATE</b>	NA
<b>Uploading Date</b>	18.07.2025.
<b>Transmission Date</b>	NA

