

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10259 of 2023

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Krishna Kumar Jha Son of Dayanath Jha, Resident of Denbi Road/D-13, P.O.-
Lalbad, P.S.- LNMU, Darbhanga, District- Darbhanga, Bihar. And at present
resident of Village- Murliachak, P.S.- Patauna (Bisfi), District- Madhubani,
Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Transport Department, Government of Bihar, Patna.
2. The Secretary, Transport Department, Government of Bihar, Patna.
3. The Regional Transport Authority, Darbhanga through the Commissioner-cum-Chairman,
4. The Commissioner-cum-Chairman, Regional Transport Authority, Darbhanga.
5. The Joint Commissioner - cum - Secretary, Regional Transport Authority, Darbhanga.
6. The Additional Collector, Darbhanga - cum - Member, Regional Transport Authority, Darbhanga.
7. The Bihar State Road Transport Corporation (BSRTC), through Regional Manager, Darbhanga Division, Laheriyasarai, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikas Kumar Jha, Adv.
For the Respondent/s : Mr. Raghwendra Kumar (Sc 22)

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

Date : 23-01-2024

The present writ petitioner is filed for the following
reliefs:-

*(1) For issuance of a writ in the
nature of Certiorari for quashing the
rejection order vide Memo No. 645 dated
09.06.2023 of the Office, Regional
Transport Authority (hereinafter referred as
'RTA'), Darbhanga Division, Darbhanga –*



whereby and whereunder the RTA, Darbhanga has been pleased to reject arbitrarily and illegally the application dated 15.05.2023 of the petitioner for issuing special permit of the buses bearing Registration No. BR-06PB-9099 and BR-06PB-9095 on the objection of the Respondent No. 7 in terms of dues of previous commission on these buses. (Annexure – P/2-Impugned Order/Letter).

(ii) For issuance of writ in the nature of Mandamus for directing upon the respondent authorities to issue the road permit of the vehicles (buses) of the petitioner, which is not being issued by the Respondent No. 3 under the influence/objection of the BSRTC – whereby and whereunder the Respondent No. 3 has rejected the application of the petitioner for issuing the road permit of buses by stating the erroneous reasons during the proceedings without given notice to the petitioner and because of this Petitioner are facing irreparable losses day to day as the burden of the Bank Loan, Taxes and other liability are increasing day by day.”

2. It is a case of the learned counsel for the petitioner that the petitioner has applied for renewal of licence and the authorities have rejected the same on the ground that the petitioner



is due an amount of Rs. 6,42,000/- to the BSRTC i.e. Respondent No. 6 and, therefore, the renewal of the licence to the petitioner cannot be granted. Learned counsel for the petitioner has stated that the said action of the respondents is contrary to the provisions of the Motor Vehicle Act and also the judgment of 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. Further, the learned counsel has stated that the official respondents are relying on letter no. 9004 dated 06.09.1991 to reject the renewal of the petitioner. Learned counsel has also stated that the said letter no. 9004 dated 06.09.1991 on which reliance has been placed by the official respondents was subject matter of a CWJC No. 3096 of 1996 before this Hon'ble Court and this Hon'ble Court vide order dated 23.08.1996 has set aside the said letter.

3. In the counter-affidavit filed by the respondents, it is specifically stated that the petitioner was due a sum of Rs. 6,42,000/- to the Respondent No. 6. That based on the letter written by Respondent No. 6 BSRTC the authorities have rejected the application of the petitioner for renewal of license. Learned counsel for the respondents has prayed for dismissal of the writ petition.



4. Admittedly, in the present case the petitioner has applied for renewal of the licence to the authorities concerned and the same was rejected vide impugned order dated 09.06.2023 (Annexure-P/2). A perusal of the impugned order shows that the authorities have rejected the application of the petitioner for renewal of the licence solely on the ground that the petitioner is due a sum Rs. 6,42,000/- to the Respondent No. 6. It is contended that the application of the petitioner for renewal cannot be considered as the petitioner is due some amounts to the Respondent No. 6. Under similar circumstances this Hon'ble High Court vide order dated 23.08.1996 passed in CWJC No. 3096 of 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.”

5. Learned counsel for the respondents has fairly stated that the above order of the learned Single Judge in CWJC No. 3096 of 1996 has attained finality as no appeal has been filed by the department against the said order.

6. Further, the Hon’ble Supreme Court 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 Stat 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 Consitution 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.”

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. Therefore, the impugned order is set aside, the official respondents are directed to consider the application of the petitioner afresh on its own merits without taking into consideration that the amounts are due to Respondent No. 6. This order does not debar the Respondent No. 6 from taking necessary action for recovery of any amounts due from the petitioner.

8. With the above direction, this writ petition is allowed to the extent indicated. It is further made clear that before renewing the license of the petitioner, the Respondent No. 6 may also be heard and if any other objections are filed, the same shall



be considered in accordance with law. It is made clear that the renewal of the permit of the petitioner cannot be rejected on the sole ground that amounts are due to 6th respondent.

(A. Abhishek Reddy, J)

Gauravkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.01.2024
Transmission Date	N/A

