
(2019) 01 MP CK 0045
In the Madhya Pradesh High Court
Case No : Writ Petition No. 1572 Of 19

Ayub Khan

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 25-01-2019

Acts Referred:

Constitution Of India, 1950 — Article 19, 226
Motor Vehicles Rules, 1989 — Rule 80

Citation : (2019) 01 MP CK 0045

Hon'ble Judges : Sheel Nagu, J

Bench : Single Bench

Advocate : R.D. Sharma, G.S. Chauhan

Final Decision : Disposed Off

Judgement

Petitioner by the present writ petition under Article 226 of the Constitution of India seeks following reliefs:-

7.1 To issue directions to the respondents No. 2 & 4 to countersign the petitioner permit (Annexure P/2), subject to payment of Tax as per rule, permitting operation of its vehicle in the portion of Maharashtra in the interest of traveling public.

7.2 The respondent Nos. 1 & 3 may kindly be directed to ensure the implementation of the agreement strictly with mutual consultation to the respondent Nos 2 & 4.

7.3 Any other order deem fit and proper the facts and circumstances of the case may kindly be passed, in the interest of justice.

The grievance of the petitioner is that STA Gwalior has issued temporary permit in favour of the petitioner vide Annexure P/2 valid from 10/10/18 to 30/04/19 for the bus bearing registration No. MP28P1150 having capacity of 52+2 for inter-state route from Nagpur to Chhindwara two return trip daily, awaiting counter

signature on the said permit by the STA State of Maharashtra for which letter dated 2/1/19 has been sent by the Secretary of STA Gwalior vide Annexure P/3. Petitioner has also submitted application under the prescribed form under Rule 80 of Motor Vehicle Act Annexure P/4 for issuance of temporary permit by STA Maharashtra State, Mumbai. Petitioner has approached this court due to failure of the competent authority at Maharashtra to counter-sign the temporary permit for the same inter-state route.

Learned counsel for the petitioner raising the plea of parity submits that another petition i.e. W.P. No. 9894/18 (Smt. Sita Devi Mange Vs. State of M.P. and Ors.) attended with similar circumstances has been disposed of on 18/5/18 in respect of similar inter-state route between Madhya Pradesh and Maharashtra with directions.

Learned counsel for the State does not dispute passing of the order dated 18/5/18 in W.P. No. 9894/18 and the website of the High Court also indicates that the order dated 18/5/18 passed in W.P. No. 9894/18 continues to hold the field till date.

In view of above and consensus between the parties, this petition stands disposed of in the same light of order dated 18/5/18 passed in W.P. No. 9894/18 by brother Anand Pathak J. with admirable lucidity.

For ready reference and convenience, the relevant portion of the said order dated 18/5/18 is reproduced below which shall apply to the present case mutatis mutandis :-

Considering the submissions, it is apparent that the said interim order passed by the Apex Court itself is given effect to by the respondents in respect of State of U.P. only and they are regularly giving permits (although temporary permits only) and counter-signing the permits between the State of Maharashtra and M.P. therefore, on the basis of their own submissions, respondents cannot restrain the petitioner in any manner for seeking relief of counter-signature from the State of Maharashtra.

From perusal of fact situation as well as petition memo, it appears that as per reciprocal agreement dated 01-03-2007 executed between the State of Madhya Pradesh and Maharashtra, it is apparent that both the States would respect reciprocal agreement/temporary permit given for plying vehicles between two States. Here, in the present case, State of Madhya Pradesh and its appropriate authority (State Transport Authority) has issued temporary permit on 31/12/18 vide permit No.405/STA/2018 for plying the vehicle No. MP28P1150 of the petitioner for the period from 1/1/19 to 30/4/19 from Nagpur to Chhindwara. In absence of counter signature from the State of Maharashtra petitioner is finding hard to ply vehicle between said destinations. Considering the fact situation, if further appears that it is procedural formality which has to be performed by State of Maharashtra, if petitioner comply all other terms and conditions as contained into reciprocal agreement as well as in granting temporary permit.

Therefore, instead of pending the petition, this Court deems fit to dispose of this petition with the direction to State of Maharashtra to consider the case of petitioner as per terms and conditions of reciprocal agreement dated 01-03-2007 and if petitioner fulfills all the condition then counter signature be made immediately within 7 days from the date of receipt of certified copy of the order so that petitioner if fulfills all the conditions may ply the vehicle between two destinations as referred above and her right to pursue business/occupation as enshrined under Article 19 of Constitution of India would not be hindered in any manner.

As an interim arrangement, petitioner shall be allowed to ply her vehicle in accordance with the terms and conditions of permit and the said vehicle shall not be stopped on the ground of non counter signature of State of Maharashtra over the temporary permit granted to the petitioner.

At this stage, learned counsel for the petitioner also raised the point that STA is not granting permanent permit and only adopting adhoc measure of temporary permits which causes inconvenience and uncertainty to the bus operator.

Since this is a matter to be decided by the STA and its members, but it is certainly expected from the STA that the decision regarding issuance of permanent permit would be sorted out by them in a pro-active manner on positive and affirmative note so that the meetings for grant of permanent permit may not defer and meetings may take place as per their schedule.

With the aforesaid directions, petition stands disposed of.