
(2015) 09 OHC CK 0006
In the Orissa High Court
Case No : W.P.(C) No. 13239 of 2015

Bipin Bihari Sahu

APPELLANT

Vs

State of Odisha

RESPONDENT

Date of Decision : 09-09-2015

Acts Referred:

Citation : (2016) 1 ACC 759 : (2016) AIR (Ori) 5 : (2016) 121 CLT 17 : (2015) 2 ILR Ori 840 : (2016) 1 OLR 201

Hon'ble Judges : D.H. Waghela, C.J. and Biswanath Rath, J.

Bench : Division Bench

Advocate : Gopal Krushna Mohanty, Senior Advocate, P.K. Panda, D. Mishra, S. Das and S.K. Ganayak, for the Appellant; Bigyan Sharma, Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

Biswanath Rath, J.—Heard Mr. Gopal Krushna Mohanty, learned Senior Advocate for the petitioner and Mr. Bigyan Sharma, learned Standing Counsel for the Transport Department. The petitioner, a driver being affected for non-renewal of his driving license for his not having the required training based on the circulars issued by the Office of the Transport Commissioner-cum-Chairman, State Transport Authority, Odisha, Cuttack bearing Circular No. 2 of 2015 dated 13.05.2015 and Circular No. 09 of 2015 dated 04.06.2015 under Annexures. 2 and 3 respectively has sought to assail the action of the public authority on the premises that the said Circulars are contrary to the provisions contained in the Act and cannot be sustained. In filing the aforesaid writ petition, the petitioner while seeking quashing of Circulars vide Annexures-2 and 3 sought for appropriate relief by way of mandamus from this Court.

2. On his appearance, Mr. Sharma, learned counsel for the Transport Department for opposite party No. 2 attempted to justify the action of the Public Authority by drawing our attention to the counter affidavit filed on behalf of opposite party No. 2 and submitted that the circulars issued by the State Transport Authority are an

outcome of the direction of the Hon''ble Apex Court in its decision in the case of S. Rajaseekaran Vs. Union of India (UOI) and Others, .

3. Before proceeding to other aspects, it is necessary here to take note of the observations of the Hon''ble Apex Court made in paragraphs 13(f) and 14.9, which are quoted herein below:

"13.(f) Directions to R-I regarding licensing:

(i) There should be a cap on the number of licences that can be issued by the official concerned in one day, so that every application for a licence is strictly checked and evaluated. The petitioner suggests a cap of four licences issuable per official per day.

(ii) Prescribe minimum education and qualification standards for drivers.

(iii) Test the knowledge of safety standards, road rules, signboards, road markings, etc. in addition to mere ability to drive. Licences ought not to be issued, as presently done, on the basis of the criteria of ability to drive alone.

(iv) Licensing should be based on biometrics to prevent multiple licences being issued to one person.

(v) Computerized licensing to track offences and introduce a point-based penalty system for offenders.

(vi) Bar coding of vehicles and licences to link the penalty system, the annual fitness certificate of the vehicle, and insurance forms for instant information.

(vii) Restrictions on the number of new vehicles registered and number of vehicles a family/person can own, methods to ensure road-worthiness of vehicle, periodic licence renewal, etc.

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14.9. Refresher training course for heavy vehicle drivers are being organized to inculcate safe driving habits and to acquaint the drivers with the rules to be followed while using the roads."

4. From reading of the above observation/direction of the Hon''ble Apex Court, we find the observation/direction contained in paragraph-13(f), no where prescribes imposition of further training to the existing drivers before considering their renewal application as contemplated in both the Circulars. Similarly, observation/direction whatever contained in paragraph-14.9 of the said judgment recommends for refresher training course for heavy vehicle drives to acquaint the drivers with the rules to be followed while using road.

5. Considering the submissions of learned counsel for the respective parties, we find the circulars issued under Annexures-2 and 3 are not only arbitrary but also contrary to the statutory provisions as provided under the Central Motor Vehicles Rules, 1989 and also runs contrary to the direction/observation made by the

Hon"ble Apex Court in the case of S. Rajaseekaran (supra) and are arising out of misreading of the above decision. Consequently, this Court set aside both the Circular No. 2 of 2015 dated 13.05.2015 and Circular No. 9 of 2015 dated 04.06.2015 as appearing at Annexures-2 and 3 respectively and further direct that the State Transport Authority to grant renewal of driving licence of the petitioner forthwith. The writ petition stands allowed. However, there is no order as to costs.