
(1995) 08 MP CK 0043
In the Madhya Pradesh High Court
Case No : Writ Petition No. 2237 of 1995

Bundelkhand Travels

APPELLANT

Vs

State of Madhya Pradesh and Another

RESPONDENT

Date of Decision : 25-08-1995

Acts Referred:

Constitution of India, 1950 — Article 19(1)
Madhya Pradesh Motor Vehicles Rules, 1994 — Rule 72, 72(1), 73, 73(1), 82
Motor Vehicles Act, 1988 — Section 69

Citation : (1996) 41 MPLJ 1104 : (1996) MPLJ 1104

Hon'ble Judges : A.K. Mathur, Acting C.J.; D.K. Jain, J

Bench : Division Bench

Advocate : B.K. Rawat, for the Appellant; R.P. Agrawal, Addl. A.G., for the Respondent

Final Decision : Dismissed

Judgement

A.K. Mathur, A.C.J.

All the three petitions involve similar question of law and facts, therefore, they are disposed of by a common order. For convenience disposal of these cases, the facts given in W.P. No. 2226/95, *Mis Vikas Travels v. State of M. P. and anr.* are taken into consideration.

The petitioner by this petition has prayed that the Regional Transport Authority, Jabalpur may be directed to issue renewal slip of regular permit No. PsTs. No. 2/84 on the route Mandla to Seoni via Nainpur. It is also prayed that sub-rule (3) of Rule 72 and sub-rule (1)(a) of the Rule 73 of the M. P. Motor Vehicles Rules, 1994 be declared invalid/ultra vires being unworkable and being framed in excess of the rule making authority under the Motor Vehicles Act.

The petitioner has a fleet of 9 buses. He is having 5 regular permits. The list of the permits and the buses has also been shown in the application form of renewal application. The petitioner is being granted continuous temporary permit

during the pendency of the renewal application and the renewal application is still pending. It is submitted that these M. P. Motor Vehicles Rules, 1994 came into force from August, 1994 (hereinafter referred to as Rules, 1994). The new Motor Vehicles Rules, 1994 provides application and permit forms under Rules 72(1)(a) and 73(i) Form M. P. Motor Vehicles Rules 42(SCPA) and M. P. MVR 48 (SCP) in that particular vehicle number is required to be mentioned and no other vehicle owned by the permit holder can ply on that permit. Under the earlier M. P. Motor Vehicles Rules, there were two type of application forms and permit forms. One form was Pst.P. and the other was P.St.S. The P.St.S. form was in respect of the particular vehicle in which vehicle number is to be mentioned and other form was P.St.P. in which any one vehicle of the fleet can be plied as per the terms of the permit condition. These two type of forms were prescribed in public interest and for facilitates of the persons who owned more vehicles and in the interest of public and as per provisions of Motor Vehicles Act. It is submitted that sub-rules (3) and (4) of Rule 82 of the M. P. Motor Vehicles Rules, 1994 are unworkable and it deprives the petitioner to utilise anyone of his stage carriage under the regular permit held by the petitioner in question. The petitioner is being deprived to use his other bus in the case of break down or in any other emergency to replace the bus which may be entered in the permit. In this way, the said rule deprives the petitioner to do his trade freely. The restrictions so imposed to restrict the petitioner from using his other buses of the fleet under the permit in terms of the permit conditions are unreasonable, unjust and violative of Articles 19(1)(g) and 14 of the Constitution of India. Likewise, the Rules 72 and 73 prescribing only one type of forms for permits are also violative of the objects of the Motor Vehicles Act and the same are against the public interest at large. Therefore, it is prayed that sub-rule (3) of Rule 72 and sub-rule (1)(a) of Rule 73 of the M. P. Motor Vehicles Rules, 1994 may be declared as ultra vires.

A reply has been filed "by the respondents and the respondents in their return, pointed out that the Rules are intra vires and the problem of the petitioner is purely academic and just to evade the tax. In order to check the evasion of the tax, now each operator has to keep one vehicle reserved for the contingency of the break down. Previously, if the bus operator held 10 permits he could operate with the help of 8 buses causing tax evasion as well as public inconvenience. Therefore, in order to ensure the checking of the evasion of the tax as well as for the public convenience, now under the new Rules each operator has to give the number of the reserve vehicle to operate on the route in question in the event of break down or any other contingency. This will ensure the regular service to the public as well as it will check the evasion of tax. It is submitted that provision is not contrary to the Motor Vehicles Act or any other provision of the law.

Shri B. K. Rawat, learned counsel for the petitioner, submitted that u/s 69 of the Motor Vehicles Act, 1988 he can apply for the permit on vehicle or vehicles but by virtue of these Rules, now he cannot do so. In order to appreciate the whole controversy, it will be proper to refer Section 69(1) of the Motor Vehicles Act, 1988, which reads as under :-

"69. General provision as to applications for permits. - (1) Every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles :

Provided that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles :

Provided further that if it is proposed to use the vehicle or vehicles in two or more regions lying in different States, the application shall be made to the Regional Transport Authority of the region in which the applicant resides or has his principal place of business."

xxx xxx xxx

M. P. Motor Vehicles Rules, 1994 have been framed under the Motor Vehicles Act, 1988. Rule 72 of the Rules, 1994, deals with the forms of application for permits, which reads as under :-

"72. Form of Application for Permits. - (1) Every application for grant or renewal of a permit in respect of any transport vehicle shall be in one of the following forms that is to say -

(a) in respect of a stage carriage or reserve stage carriage permit in Form M.P.M.VR. 42 (SCPA);

(b) in respect of a contract carriage Form M.P.M.VR. 43 (CCPA);

(c) in respect of a goods carriage in Form M.P.M.VR. 44 (GCPA);

(d) in respect of a temporary permit in Form M.P.M.VR. 45 (TPA);

(e) in respect of a private service vehicle permit in Form M.P.M.VR. 46 (PSVPA);
and

(f) in respect of a special permit in Form M.P.M.VR. 47 (SPA).

(2) The application shall be addressed to the State Transport Authority or the Regional Transport Authority as the case may be and shall be accompanied by the fee specified in Rule 145.

(3) The application for stage carriage permit or reserved stage carriage permit as required under sub-section (1) of Section 70 shall be accompanied by the following documents, namely :

(a) an authentic route map along with certified distance between various stages and certificate regarding motorability of the route from the departments which have control over such road;

- (b) certificate from Registering Authority containing make, model and seating capacity of the vehicles owned by the applicant at the time of making the application;
- (c) details of the stage carriage and reserved stage carriage permits already held by the applicant;
- (d) no dues certificate issued by the Regional Transport Officer concerned;
- (e) declaration duly certified by an officer of the Madhya Pradesh State Road Transport Corporation authorised by the Managing Director about the portion and distance of the route covered by any nationalization scheme; and
- (f) any other information as may be required by the Transport Authority."

Rule 73 of the Rules, 1994 reads as under :-

"73. Forms of Permits. - (1) Every permit shall be in one of the following forms that is to say :-

- (a) in respect of Stage Carriage or reserve stage carriage permit in Form M.P.M.VR. 48 (SCP) or Form M.P.M.VR. 43A (RSCP) as the case may be.
 - (b) in respect of a contract carriage Form M.P.M.VR. 49 (CCP)
 - (c) in respect of a goods carriage in Form M.P.M.VR. 50 (GCP)
 - (d) in respect of a temporary permit in Form M.P.M.VR. 51 (TP)
 - (e) in respect of a private service vehicle permit in Form M.P.M.VR. 52 (PSVP)
 - (f) in respect of a special permit in Form M.P.M.VR. 53 (SP)
 - (g) in respect of tourist vehicle permit in Form M.P.M.VR. 54 (TVP)
 - (h) in respect of a National Permit in Form M.P.M.VR. 55 (GCNP).
- (2) Every permit shall be issued on such water paper as may be specified by the Transport Commissioner and shall be printed in form as specified in sub-rule (1) in different colours for different category of permit and shall be numbered in book form serially.

Rule 82 deals with renewal of permits which reads as under :-

"82. Renewal of permits. -

- (1) Application for the renewal of permit shall be made in the form prescribed under sub-rule (1) of Rule 72 to the Transport Authority by which the permit was issued. The application shall be accompanied by the fee as specified in Rule 145.
- (2) The Transport Authority renewing a permit shall call upon the holder to produce the permit and shall return the same after endorsement.
- (3) On or after the commencement of this rule, permits relating to service of

stage carriages or casual contract carriages issued before the commencement of the Motor Vehicles Act, 1988 (No. 59 of 1988) in Form P.St.S. and Form P.Co.s respectively, shall, on renewal of such permits be issued in Form M.P.M.VR. 48 (SCP) or Form M.P.M.VR. 49 (CCP) as the case may be.

(4) The permits granted or renewed during the period between the date of coming into force of the Motor Vehicles Act, 1988 and the date of commencement of these rules, and issued in Form P.St.S. or P.Co.s as the case may be shall be, converted and issued in Form M.P.M.VR. 48 (SCP) or Form M.P.M.VR. 49 (CCP) respectively, after giving a notice to the permit holder in Form M.P.M.VR. 57-a (NCFP) and after giving him an opportunity of being heard."

Rule 72 deals with "Forms of Application for permits, and the Form under Rule 72(1)(a) is in respect of a stage carriage or reserve stage carriage permit in Form M.P.M.VR. 42 (SCPA)". Rule 73 deals with "Forms of permits and the Form under Rule 73(1)(a) is in respect of Stage Carriage or reserve stage carriage permit in Form M.P.M.VR. 48 (SCP) or Form M.P.M.VR. 43-A (RSCP) as the case may be".

Now keeping in view these provisions of the Act and the forms under the Rules each operator has to give the number of vehicle which he wants to use against the particular permit and he has to give the number of reserve vehicle in the event of break down. Clause 10 of the Form M.P. Motor Vehicles Rule 42 (SCPA) says "the number of vehicles intended to be kept in reserve to maintain the service and to provide for special occasion on the route applied for". In order to operate on a particular route, the operator has to give the number of vehicle which is intended to be in reserve for contingency of break down. Similarly, this facility has been given in the permit also. Clause 12 of the Form M.P. Motor Vehicles Rule 48 (SCP) under Rule 73(1)(a) of the Rules, 1994, deals with "details of reserve stage carriage, permitted to operate, in case of emergency or any contingency raised due to the break-down of regular vehicle or otherwise to maintain the service of regular permit.

All these are regulatory measures for the smooth operation of the traffic in the public interest. These measures enable the smooth operation of the route for public as well as for a proper check on the evasion of tax also. The operator cannot raise any plea that since the vehicle has broken down, therefore, he cannot operate on the route. The authority can also keep the check that what is the capacity of the vehicle which is being operated on the route so that the petitioner cannot evade the tax also. Prior to this, in the old form, there was a different situation and there was a possibility of evasion of the tax also. Therefore, in order to check these two contingencies that the route may be operated properly and there is check on the evasion of the tax, the operators are under obligation to give the number of the vehicle which are to be operated on the route in question and the number of stage-carriage is sought to be used on account of break down of regular stage carriage. He can operate the reserve vehicle for which he has given the number of the permit and he will not be

permitted to operate any other vehicle in the event of break-down. The restrictions cannot be said to be violative of Article 19(a)(g) of the Constitution.

Similarly, it is wrong to contend that both these Rules are beyond Section 69 of the Motor Vehicles Act. Section 69 only says that every application for permit shall be made to the Regional Authority of the region in which the operator has to use the vehicle or the vehicles. The word "vehicle or vehicles" does not necessarily mean that the authority cannot pin down the operator to disclose the number of the vehicle or vehicles which he propose to use on the route in question. The operator can give the number of the one vehicle or two vehicles for their operation. Hence, the contention of Shri Rawat does not appear to be correct, and same is overruled. Rule 82 provides for renewal of permits, therefore, on the basis of same reasoning, there is no illegality in this rule.

Hence, in the result, Rules 72, 73 and 82 of the M.P. Motor Vehicles Rules, 1994 are not ultra vires of Section 69 of the Motor Vehicles Act, 1988 or Article 19(1) (g) of the Constitution. Therefore, there is no merit in these petitions, they are dismissed. No order as to costs.