

(2012) 11 CHH CK 0014
In the Chhattisgarh High Court
Case No : Writ Petition C. No 784 of 2012

Kanker Roadways

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 05-11-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 86

Citation : (2012) 11 CHH CK 0014

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : Gautam Bhaduri, for the Appellant; Sumesh Bajaj Government Advocate for the respondent No 1 to 3 Shri Raja Sharma Advocate for the respondent No 4 and, for the Respondent

Final Decision : Dismissed

Judgement

Hon"ble Shri Satish K. Agnihotri, J.—Challenge in this petition is to the order dated 16.03.2012 (Annexure P/1) passed by the Regional Transport Authority, Jagdalpur, whereby the application for grant of temporary permit for the route Raipur to Bailadila via Jagdalpur and back, and further the application for grant of permanent permit, on the same route, was rejected. The facts, in brief, as projected by the petitioner are that the petitioner was plying its buses from Raipur to Bailadila, from the year 2003. In the year 2010, the RTA changed the timing of the Bus in permit of the petitioner on objection made by some other operators and thus, since 2010, temporary permits were issued to the petitioner. The latest temporary permit was applied by the petitioner on 29.02.2012 for the period from 01.03.2012 to 31.05.2012. The petitioner had earlier made an application for grant of permanent permit on 15.06.2010 (Annexure P/5). The said application was taken up by the RTA on 07.03.2012. The applications of those operators were considered in such hearing who were plying their vehicles under temporary permit for four months or above. After consideration, the application of the petitioner for permanent permit, was rejected and also, the

temporary permit, which was valid up to 31.05.2012, was also cancelled.

2. Shri Bhaduri, learned counsel appearing for the petitioner submits that the action of the RTA is arbitrary and illegal. Without giving any opportunity of hearing, the temporary permit granted earlier, was also rejected including the application for grant of permanent permit. The right to impose the limit of numbers of permit have been taken away and as such, the rejection to grant permanent permit is against the object and statute of the Motor Vehicles Act, 1988. Further, the temporary permit could not have been suo moto reviewed arbitrarily and therefore, cancellation of the same is void ab initio and is against the mandate of section 86 of the Act, 1988.

3. On the other hand, Shri Bajaj, learned Government Advocate appearing for the State/respondent No. 1 to 3 submits that there is an alternative remedy of appeal before the State Transport Appellate Tribunal, Chhattisgarh. Thus, this petition is not maintainable on the ground of availability of alternative remedy. Further, the petitioner was granted temporary permit lastly on 29.03.2012 for a period from 01.03.2012 to 31.05.2012, on account of pendency of his application for grant of permanent permit and to meet the temporary need. The petitioner has having number of permits for number of routes, including the route in question. The impugned order does not need any interference as the application of the petitioner for grant of permanent permit has been rejected on well reasoned ground.

4. Shri Sharma, learned counsel appearing for the respondent No. 4 and 6 submits that no interference is warranted in the impugned order as the same is well reasoned.

5. Heard learned counsel appearing for the parties, perused the pleadings and documents appended thereto.

6. This Court, vide order dated 04.05.2012 had granted interim relief to the extent that the cancellation of temporary permit will remain stayed till the next date of hearing. Thereafter, on 06.09.2012, it was clarified by this Court that the interim order would not continue after the period of temporary permit is over. The temporary permit was granted for the period from 01.03.2012 to 31.05.2012. Thus, at this juncture, the issue of cancellation of temporary permit, has become academic. Further, so far as rejection of the application of the petitioner for grant of permanent permit is concerned, the petitioner has alternative efficacious remedy of appeal before the State Appellate Transport Authority, which has not been availed by the petitioner.

7. This Court, in Maa Sharda Sahkari Upbhokta Bhandar Maryadit, Pratappur v. State of Chhattisgarh & Others¹, relying on the ratio laid down by the Supreme Court in State of H.P. and others v. Gujarat Ambuja Cement and another², U.P. State Spinning Co. Ltd. v. R.S. Pandey and another³ and Secy. U.P. High School & Intermediate Education, Allahabad & another v. H.K. Lal⁴, Dhampur Sugar Mills Ltd. v. State of U.P. and others⁵, M.P. State Agro Industries Development

Corporation & Anr. v. Jahan Khan⁶ and Popcorn Entertainment and another v. City Industrial Development Corpn. and another with Platinum Entertainment and another v. City Industrial Development Corpn. and another⁷ held that normally, the High Court should not interfere if there is an adequate efficacious alternative remedy where hierarchy of appeals is provided by the statute, party must exhaust the statutory remedy before resorting to writ jurisdiction, except when a very strong case is made out for making a departure.

8. In view of the foregoing, this petition is dismissed as not maintainable. However, liberty is reserved to the petitioner to take recourse to alternative statutory forum, that may be available, under the provisions of law, if so advised. No order as to costs.