(2014) 02 MP CK 0014

In the Madhya Pradesh High Court

Case No : W. P. No. 555 of 2013

Mohammad Safique APPELLANT

Vs

State Transport Appellate Tribunal RESPONDENT

Date of Decision : 11-02-2014

Acts Referred:

Citation : (2014) 3 MPLJ 478

Hon'ble Judges : S.K. Gangele, J;G.D. Saxena, J

Bench : Division Bench

Advocate : Narendra Sharma, Advocate for the Appellant; Arvind Dudawat, Advocate for the Respondent

Final Decision : Allowed

Judgement

1. Heard.

This petition has been filed by the petitioner against the order dt. 4-3-2011 (Annexure P/9) passed by the Regional Transport Authority and also against the order dt. 22-10-2012 (Annexure P/1) passed by the State Transport Appellate Tribunal in Revision No. 310/2011.

2. Respondent No. 3 was granted a regular permit of a route Mahidpur to Jabra one single return trip daily vide order dt. 4-3-2011. The petitioner submitted an objection in regard to grant of permit to the respondent No. 3 on the ground that he had criminal record, he was in arrears of tax and the route was not formulated, hence, the permanent permit could not be granted in his favour.

3. Regional Transport Authority vide order dt. 4-3-2011 rejected the objections and granted permanent permit in favour of the respondent No. 3. Against the aforesaid order, a revision was filed by the petitioner, that has also been rejected.

4. Along with the writ petition, the petitioner submitted a copy of the certificate (Annexure P/5) issued by the District Transport Office, Ratlam. It is mentioned in the certificate that in accordance with the record, an amount of Rs. 1,75,000/-

was due against the vehicle No. MP43F-2786, a passenger bus, which was owned by the respondent No. 3, up to 31-5-2010. It is further pleaded that the respondent No. 3 is a history-sheeter and an FIR at Crime No. 108/2007 for commission of offence u/s 8/18 of NDPS Act was registered against him. A copy of the FIR has been filed along with the writ petition.

5. From the facts of the case it is clear that the respondent No. 3 had criminal antecedents. The authorities have not considered the fact that whether any tax was due against the respondent No. 3 or not particularly vehicle No. MP43F-2786, for which certificate (Annexure P/5) has been filed.

6. Division Bench of this Court in Kishan v. State of M.P. and others reported in 2008(2) MPLJ (Cri.) 334 = 2008 (I) MPJR 87 has considered the provisions of Rule 72(3) of the M.P. Motor Vehicles Rules, 1994 and held as under in regard to eligibility of a person to receive permit if the tax is due against him :--

"11. In this context it is apposite to refer Rule 72(3) of the 1994 Rules. It reads as under:

"72(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 authorized 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."

12. A Division Bench of this Court in the case of M.P. State Road Transport Corporation Vs. Ram Prasad Purohit and Others, has held that the said rule is not mandatory. Under the Rule a no due certificate issued by the Regional Transport Officer concerned is required to be furnished. It has been held that the said rule is not mandatory. Thus, the learned single Judge has rightly held that it was not essential on the part of the appellant to submit a certificate along with the application for permit. But that does not necessarily mean that the appellant who is in arrears of dues would become entitled for grant of permit. What it means is

if the no dues certificate is not accompanied, the application cannot be thrown overboard on the ground of non-compliance of the mandatory requirement but when an issue is raised that a candidate is in arrears, the authority concerned is under obligation to scrutinize the same. Regional Transport Officer had not scrutinized the same. In revision the tribunal scrutinized the same and bestowed consideration. Learned single Judge has referred to Annexure P/7 from which it is noticeable that the appellant was in arrears of dues of taxes, composition fees and interest at the time of consideration of the application. Learned single Judge has not lent credence to the instance that vehicle was not in use as the relevant documents were not produced before the tribunal."

7. Division Bench in the aforesaid case has clearly held that if a person is in arrears of tax dues, he would not be eligible to grant permit and it is the duty of the authority to ensure that no arrears of tax was due against the permit holder. Apart from this, in our opinion, it would not be necessary for the authority to consider the fact of registration of criminal case and the effect of the same in regard to providing comfortable transport service to the passengers. The authorities have not considered the aforesaid aspects.

8. Hence, the petition is allowed. The impugned orders dt. 22-10-2012 (Annexure P/1) passed by the State Transport Appellate Tribunal in Revision No. 310/2011 and dt. 4-3-2011 (Annexure P/9) passed by the Regional Transport Authority are hereby quashed. Grant of permanent permit to the respondent No. 3 is hereby also quashed. The matter is remanded back to the RTA to consider afresh the question of grant of permanent permit after taking into consideration all the facts mentioned in the order in accordance with law. With the aforesaid, petition is disposed of accordingly. No order as to costs.