

(1996) 05 MP CK 0003
In the Madhya Pradesh High Court
Case No : M.P. No. 1061 of 1993 (G)

M/s. Orchha Transport Company and another	APPELLANT
Vs	
S.T.A.T.M.P. Gwalior and another	RESPONDENT

Date of Decision : 14-05-1996

Acts Referred:

Motor Vehicles Act, 1988 — Section 66, 69, 70, 71, 72

Citation : (1997) 1 MPJR 195

Hon'ble Judges : Tejinder Singh Doabia, J

Bench : Single Bench

Advocate : J.P. Gupta, for the Appellant; K.N. Gupta, Govt. Advocate, for the Respondent

Judgement

T.S. Doabia, J.

Shri J.P. Gupta, Counsel for the petitioner. Shri K.N. Gupta, G.A. for the State Respondent. Heard.

This order shall dispose of writ petitions No. 1060 of 1993 and 1061 of 1993. These arise out of similar situation. Facts have, however, been taken from writ petition No. 1060 of 1993.

The petitioner was having a permit under the Motor Vehicles Act, 1939 (hereinafter referred to as the "Act of 1939"). According to him, two types of permits were being issued under the Act of 1939. These are known as P. St. P. and P. St. S. permits. In the first category, the permit holder was supposed to ply a particular bus but so far as second category is concerned, the permit holder was supposed to mention the number of buses on the permit in question and he could ply and one of the bus on permits on the routes. The further fact is that R.T.A refused to grant P. St. S. permit. An appeal was preferred before the S.T.A.T. Gwalior. This was allowed vide order Annexure P/5. The matter was remanded to the Regional Transport. The Regional Transport Authority however rejected the prayer. Copy of this is Annexure P/6. A revision was preferred. This

came to be decided vide order Annexure P/7.

The State Transport Appellate Tribunal came to the conclusion that the earlier order Annexure P/5, might hold good under the Act of 1939 but in view of the provisions contained in Motor Vehicles Act, 1988, the permit which the petitioner was seeking could not be issued to him. On this reasoning, the revision petition preferred was dismissed. Against the above order, the present petition has been preferred.

The learned counsel for the petitioner has argued :

(i) that, the situation under the New Act is not different He is placing reliance on Section 72(2)(i) of the Act, 1988. He is also placing reliance on the rules framed by the State of M.P., namely, M.P. Motor Vehicles Rules, 1984. He is particularly placing reliance on Rule 72 (1) (a) Form 42 SCPA., and Form MPR 48. In particular reliance is being placed on condition No. 10 These Provisions be noticed. This reads as under:-

Forms 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.V.R. - 42 (SCPA).

FORM - M. P.M.V.R. 42 (S.C.P.A.) (See Rule 72(1) (a)

An Application for a permit in respect of grant / renewal / counter signature of a Stage Carriage / Reserve Stage Carriage.

To.

The Regional / State Transport Authority.....(M.P.)

In accordance with the provision of section 69, 70 and 71 of the Motor Vehicle Act, 1988, I/We the undersigned hereby apply for permit u/s 66 of that Act in respect of stage carriage / reserve stage carriage as hereunder set out :-

1. Full Name....Age....

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The route or routes or the area for which the permit is desired sketch map of the route showing the stages in between the terminal of the route.

Number of trips...

Distance of the route...Pacca...Kaccha.... (Proof to be enclosed).

Details of the vehicle offered to operate on the route applied for :-Vehicle No....Model....

Proposed stagewise time table....

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 (applicable in case of an application for stage carriage permit

.....

FORM - M.P.M.V.R. - 48 (S.C.P.) (See Rule 73(1) (a)

Permit in respect of a stage carriage.

Office of the...Transport Authority...(M.P.)(Permit granted vide STA/RTA Order dated passed in Case No....) (Under Section 72 of the Motor Vehicle Act, 1988.)

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Details of reserve stage - carriages, 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.

It be seen that the Rules of 1984 came in to existence after the decision was given by the Revisional Authority. It be also seen that the reasoning given by the State Appellate Tribunal is that the Act of 1939 used the word "vehicle or vehicles" and this phraseology is missing in section 84(a)(d) and that only the word "vehicle" has been used. This reasoning be examined.

I am of the view that the distinction sought to be pointed out by the Tribunal is not apt. Section 72(2)(i) uses the term "vehicles" when this provision is read as a whole, it would mean that more than one vehicle mentioned in the permit could be used. Similar conclusion would be deducible from the reading of the Rules and more particularly from the reading of the form of permit condition No.

10, deals with a situation where reserved carriages can be permitted to be mentioned in one permit. This is precisely the request of the petitioner was. He wanted more vehicles to be mentioned in the permit. This is permissible under the Act and the Rules. As such a direction is given to the Regional Transport Authority to take notice of the form referred to above and make insertions qua other buses also in the permit. It is, however, made clear that the Petitioner would be entitled to run one bus only at a time.

Disposed of accordingly.