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**(2009) 10 MP CK 0005**  
**In the Madhya Pradesh High Court**  
**Case No : Writ Petition No. 4391 of 2009**

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|---------------------------|----|------------|
| Parihar Transport Company | Vs | APPELLANT  |
| State of M.P. and others  |    | RESPONDENT |

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**Date of Decision :** 07-10-2009

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 89(1)(a)

**Citation :** (2009) 4 MPLJ 482

**Hon'ble Judges :** Sushma Shrivastava, J;A.K. Mishra, J

**Bench :** Division Bench

**Advocate :** B.K. Rawat, for the Appellant; Amit Singh and Ms. Sheetal Dubey, Government Advocate for State, for the Respondent

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## Judgement

Arun Mishra, J.

The Order (P-4) passed by the State Transport Appellate Tribunal passed in Revision No. 638/2007 passed has been assailed by way of filing instant writ petition.

Revision No. 638/2007 was preferred as against the order of grant of permit to M/s Parihar Transport Company whereas against the order dated 10-10-2007 passed in Case No. 158/96 by Regional Transport Authority, Rewa refusing to renew the permit held by Drigpal Singh, Appeal No. 476/2007 was preferred, which has been decided vide order (p-3) dated 13-4-2009.

The only question agitated by Shri B.K. Rawat appearing with Shri Komal Patel for petitioner, is that as against the order of grant of permit, appeal was maintainable, revision was not maintainable before STAT, thus the interference made by the STAT in the revisional order (P-4) is without jurisdiction.

Shri Amit Singh and Ms. Sheetal Dubey, GA appearing for respondents have supported the order and submitted that appeal lies only in the case of refusal to grant permit as envisaged u/s 89(1)(a) of Motor Vehicles Act, 1988 (hereinafter referred to as the Act). Thus no case for interference is made out.

Two orders were passed by Regional Transport Authority. Order (P-1) was passed on the application filed by M/s Parihar Transport Company, petitioner in the instant petition. Vide order (P-1), the Regional Transport-Authority has granted the permit, against which Revision No. 638/2007 was preferred, which has been decided vide order (P-4) by STAT. The STAT has set aside the order passed by the Regional Transport Authority which order has not been assailed in this petition.

Another order (P-2) was passed on 10-10-2007 on the application filed by Drigpal Singh in which objector was the petitioner in the instant petition. Application filed by respondent No. 4 for renewal of permit, was dismissed, against which Appeal No. 476/2007 was preferred, which has been allowed by the STAT vide order (P-3) dated 13-4-2009. Case has been remitted to the Regional Transport Authority to take action afresh and to decide the application in accordance with law.

For examining the submission raised by the petitioner's counsel as to the maintainability of the revision as against the grant of permit, we deem it appropriate to quote the provision of sections 89 and 90 which deals with the appeal and revision.

Appeals. - (1) Any person -

(a) aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him, or

(b) aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or

(c) aggrieved by the refusal to transfer the permit u/s 82, or

(d) aggrieved by the refusal of the State or a Regional Transport Authority to countersign a permit, or by any condition attached to such countersignature, or

(e) aggrieved by the refusal of renewal of a permit, or

(f) aggrieved by the refusal to grant permission u/s 83, or

(g) aggrieved by any other order which may be prescribed, within the prescribed time and in the prescribed manner, to the State Transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final.

(2) The State Government shall constitute for the State, a State Transport Appellate Tribunal which shall consist of a judicial officer who is not below the rank of a District Judge, or who is qualified to be a Judge of a High Court:

Provided that in relation to a Union territory, the Tribunal may consist of the Administrator of that territory or any officer who has judicial experience.

(3) Notwithstanding anything contained in sub-section (1) or subsection (2), every appeal pending at the commencement of this Act, shall continue to be proceeded with and disposed of as if this Act had not been passed.

Explanation. - For the removal of doubts, it is hereby declared that when any order is made by the State Transport Authority or the Regional Transport Authority in pursuance of a direction issued by the Inter-State Transport Commission under clause (c) of sub-section (2) section 63 A of the Motor Vehicles Act, 1939, (4 of 1939) as it stood immediately before the commencement of this Act, and any person feels aggrieved by such order on the ground that it is not in consonance with such direction, he may appeal under sub-section (1) to the State Transport Appellate Tribunal against such order but not against the direction so issued.

Revision. - The State Transport Appellate Tribunal may, on an application made to it, call for the record of any case in which an order has been made by a State Transport Authority or Regional Transport Authority against which no appeal lies, and if it appears to the State Transport Appellate Tribunal that the order made by the State Transport Authority or Regional Transport Authority is improper or illegal, the State Transport Appellate Tribunal may pass such order in relation to the case as it deems fit and every such order shall be final:

Provided that the State Transport Appellate Tribunal shall not entertain any application from a person aggrieved by an order of a State Transport Authority or Regional Transport Authority, unless the application is made within thirty days from the date of the order:

Provided further that the State Transport Appellate Tribunal may entertain the application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by good and sufficient cause from making the application in time:

Provided also that the State Transport Appellate Tribunal shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

A reading of section 89(1)(a) makes it clear that appeal lies against the refusal of grant of permit not against the grant of permit. As permit was granted to the petitioner, aggrieved person could not have preferred the appeal as envisaged u/s 89(1)(a) of the Motor Vehicles Act, the revision was maintainable. Thus we have no hesitation in repelling the submission raised by Shri Rawat. In our opinion, an appeal lies only against the refusal of grant of permit. No other point is raised.

Writ petition being devoid of merit, is hereby dismissed. No costs.