
(2014) 06 MP CK 0033
In the Madhya Pradesh High Court
Case No : W.P. No. 4908/2014

Parihar Transport Company	Vs	APPELLANT
The State Transport Appellate Tribunal		RESPONDENT

Date of Decision : 25-06-2014

Acts Referred:

Constitution of India, 1950 — Article 227
Motor Vehicles Act, 1988 — Section 63(3)(ca), 68(3)(ca)

Citation : (2014) 06 MP CK 0033

Hon'ble Judges : S.K. Gupta, J; Rajendra Menon, J

Bench : Division Bench

Advocate : Subodh Kumar Pandey, Learned Counsel, Advocate for the Appellant; Rahul Jain, Learned Dy. Advocate General and Pushpendra Singh Baghel, Learned Counsel, Advocate for the Respondent

Final Decision : Dismissed

Judgement

1. Calling in question the tenability of an order Annexure-P7 dated 4th of March, 2014 passed by the M.P. State Transport Appellate Tribunal, this writ petition has been filed under Article 227 of the Constitution.
2. Records indicate that for the route in question, an application was filed by the petitioner on 11.12.2012 and vide permit granted on 26.4.2013 Annexure-P1, the application was allowed. The same was challenged by Respondent No. 3 mainly on the ground that the route in question, for which, permit has been granted was itself formulated on 24.12.2012 and, therefore, the grant made prior to formulation of the route is unsustainable.
3. It is the case of the petitioner that when the permit was granted on 26.4.2013, the route was already formulated on 24.12.2012 and, therefore, the tribunal committed an error in allowing the objection of the respondent. It is argued by Shri Pandey that the only requirement before grant of permit is the route should have been formulated. In this case, the permit was granted on 26.4.2013 and the route was formulated much before i.e. on 24.12.2012. It is

indicated that the tribunal has committed an error. Shri Pandey, learned counsel for the petitioner invites our attention to the order dated 24.4.2014 passed in W.P. No. 2251/2012 to say that following the judgment laid down by the Division Bench of this Court in the case of M.P. State Road Transport Corporation Vs. State Transport Appellate Tribunal and Others, , this principle has been reiterated by this Court and once the permit is granted after the route is formulated, the same is in accordance with law and accordingly, Shri Pandey submits that the tribunal has committed an error.

4. Shri Rahul Jain and Shri Baghel, learned counsel for the respondents invited our attention to the principle laid down by the Division Bench in the case of Ashis Kumar Jain Vs. The M.P. State Transport Appellate Tribunal and Others, , consideration of the aforesaid judgment by the tribunal in Paragraph-29 and argued that if the requirement of law is considered, then the application itself for grant of permit can be filed only after the route is formulated and as the application in this case is filed prior to formulation of the route, the same is unsustainable. Inviting our attention to the facts of the present case, it is argued by the respondents that the route is formulated on 24.12.2012, whereas the application for grant of permit is submitted on 11.12.2012 i.e. much before formulation of the route and, therefore, applying the principle laid down in the case of Ashis Kumar Jain (Supra), the tribunal has decided the matter in accordance with law.

5. We have heard learned counsel for the parties and considered the rival contentions. Even though, in the cases relied upon by Shri Pandey namely, Sabir Khan Vs. the State Transport Appellate Tribunal & Ors. in W.P. No. 2251/2014, a general principle is laid down to the effect that a Stage Carriage Permit can be granted after formulation of the route but in the case of Ashis Kumar Jain (Supra), the principle is further elaborated to say that the application for grant of Stage Carriage Permit can be filed only after the route is formulated. After taking note of provisions of Section 68(3)(ca) of the Motor Vehicle Act, the learned Division Bench in the case of Ashis Kumar Jain (Supra) has held that if all these provisions are read in consonance with each other, it is crystal clear that an application for grant of Stage Carriage Permit can only be submitted on the route being formulated in accordance with the provisions of Section 63(3)(ca)) of the Motor Vehicle Act and not before that. It is clearly held that apart from the fact that the Stage Carriage Permit can be granted only after the route is formulated, the application itself should be filed only after the route is formulated. This question with regard of submission of the application before formulation of the route was not at all considered by this Court on 24.4.2014 in W.P. No. 2251/2014.

6. In that case, only a general principle with regard to grant of Stage Carriage Permit was considered, whereas in the present case, the point of time when the application for grant of permit has to be filed is to be considered. Once the law says that the application for Stage Carriage Permit can be submitted only when the route is formulated and when, in the present case, this requirement of law is

violated and we see no error in the order passed by the tribunal warranting interference.

7. Shri Subodh Pandey, learned counsel also argued that Respondent No. 3 does not have a regular Stage Carriage or any vehicle, therefore, he has no locus to file the petition. We are not impressed with the aforesaid submission. Once we have taken note of the fact that the application for grant of permit has to be submitted after formulation of the route in question and as the tribunal has rightly interfered into the matter on such consideration, we see no reason to interfere into the matter.

8. Accordingly, finding no ground, the petition is dismissed.