
(1998) 07 PAT CK 0025
In the Patna High Court
Case No : C.W.J.C. No. 10886 of 1997

St. Domnic Savio's High School

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 16-07-1998

Acts Referred:

Motor Vehicles Act, 1988 — Section 66(1), 66(3)

Citation : (1998) 3 PLJR 210

Hon'ble Judges : Nagendra Rai, J

Bench : Single Bench

Advocate : Din Bandhu Singh, for the Appellant; J. Rahman, for the Respondent

Judgement

Nagendra Rai, J.—The present writ application has been filed for a direction to the District Transport Officer, Patna, and other Respondents for not seizing the school buses belonging to the Petitioner-School i.e. St. Domnic Savio's High School on ground of non-holding of road-permits as road-permits are not required for the vehicles owned by the educational institutions in terms of the provisions of Section 66(3)(h) of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act").

2. The Petitioner claims that it imparts education from Nursery to Xth Standard and it is affiliated to the Central Board of Secondary Education (hereinafter referred to as "the Board") and its Managing Committee is registered under the Societies Registration Act (copies of the certificates of registration have been annexed as Annexures 1 series). It owns two buses bearing registration No. B.P.P.-760 and B.H.S.-8620 apart from other mini-buses. The said buses are exclusively used for bringing the students and staff from the different localities and surrounding areas to the school and sending them back to their respective places. The buses are registered in the name of the Petitioner-school itself. It fulfils all the requirements for plying the buses on the road. The Transport Authorities insisted upon the Petitioner for route permit certificate for operating school buses. The Petitioner filed an application on 16.9.1997 before the

Executive Engineer, New Patna Area, Patna, with request to issue a route certificate so that it might apply on that basis for route permit. When the route certificates were not issued, the Petitioner approached the Commissioner, Patna Division, Patna, but no decision has been taken.

3. On 15.11.1997, the authorities illegally seized the vehicle/bus bearing registration No. BPP 760 on two grounds that there was no permit for plying the bus and that the driver of the bus was not having valid licence. It is asserted that in view of the aforesaid provision of the Act, no road permit is required, and the Transport Authorities cannot seize the vehicle on the said ground.

4. Respondent No. 3 District Transport Officer in his counter-affidavit has admitted that the aforesaid two vehicles are registered in the name of the school and are transport vehicles in terms of Sub-section (2) of Section 47 of the Act. It is also admitted that the requirement of holding a valid permit in terms of Section 66(1) of the Act is not applicable in the cases covered by the provision of Section 66(3) of the Act. According to Section 66(3)(h) of the Act, no permit is required with respect to the vehicles owned by and used for the purpose of any educational institution, which is recognized by the Central or State Government or whose Managing Committee is registered under the Societies Registration Act, 1860. However, it is stated that the Petitioner is not a recognized institution either by the Central or State Government and it is only an affiliated one to the Board. The Petitioner has not filed any document giving details regarding the registration of its Managing Committee under the provisions of the Societies Registration Act. Thus, the aforesaid provision u/s 66(3)(h) of the Act is not attracted. It is further stated that the driver of the bus bearing registration No. BPP-760 was not possessing A valid licence at the time of driving of the bus and as such the buses were seized in terms of the provisions of the Act.

5. Learned Counsel for the Petitioner submitted that the vehicles owned by the Petitioner are exclusively used for the educational purposes and the Petitioner school is affiliated to the Board and the State Government has recognized the Board as well as the Managing Committee of the Petitioner is also registered under the Societies Registration Act and as such the road permits are not required for plying the buses in terms of Section 66(1) of the Act and, thus the Respondent. Transport authorities have no jurisdiction to seize the vehicles/buses of the Petitioner on the said ground.

6. Learned Counsel for the Respondents, on the other hand, submitted that the school is not recognized by the Central or State Government and no material was produced before the authorities to show that the Managing Committee of the School is registered under the provisions of the Societies Registration Act and as such the Petitioner cannot claim the benefit of the provision of Section 66(3)(h) of the Act.

7. The controversy in, this case is limited one. It is an admitted position that a valid permit granted by the authorities concerned in terms of the provision of

Section 66(1) of the Act is required for plying of the motor-vehicle as a transport vehicle in any public place. Sub-section (3) thereof says that the provision of Sub-section (1) shall not apply to the motor vehicles mentioned in the said Sub-section. Clause (h) of Sub-section (3) provides that the provision shall not apply to transport vehicle owned by, and used solely for the purpose of any educational institution, which is recognized by the Central or State Governments or whose Managing Committee is registered under the Societies Registration Act, 1860 or under any other law corresponding to that Act in force in any part of India.

8. Thus, if the transport vehicle Is owned and used by the educational institution recognized by the Central or State Government or whose Managing Committee is registered under the Societies Registration Act, 1860 or any other corresponding Act, a permit is not required for plying the vehicle as transport vehicle in any public place.

9. The Petitioner-school is affiliated to the Board which has been recognized by the State Government. A Division Bench of this Court in C.W.J.C. No. 11157 of 1997 (R.P.S. Residential Public School and Ors. v. State of Bihar and Ors.), disposed of on 20.1.1998, has held that if the institution is affiliated to the Indian Certificate of Secondary Education, which has been recognized by the State Government, then such institution should be treated as a recognized institution by the State Government.

10. Thus, if, it is proved by producing materials before the Transport Authority that the institution is affiliated to the Board, which has been recognized by the State Government, then it has to be held that the institution is recognized by the State Government and the provision of Section 66(3)(h) of the Act will be attracted. However, except the assertion in the writ application, nothing has been produced to show that the institution is affiliated to the Board, which has been recognized by the State Government and as such on the basis of the materials, no finding can be given that the institution is a recognized institution in terms of the aforesaid provision. The Petitioner has claimed that its Managing Committee is registered under the Societies Registration Act. On this ground also, no permit is required for plying the buses of the Petitioner in terms of the aforesaid provision. This document was not produced before the Transport Authority and as such it has not tested as to whether the Petitioner is entitled to exemption of the provision of Section 66(1) of the Act on the aforesaid ground.

11. The Respondents-Transport authorities are not denying the claim of the Petitioner for exemption from having a valid permit for plying the buses, on the other hand, their stand, as stated above is that nothing was produced before the authorities to satisfy that the Petitioner is entitled to the benefit of the provision of Section 66(3)(h) of the Act.

12. In that view of the matter, I am of the considered view that the matter requires reconsideration by the State Transport Commissioner, Patna after perusal of the documents filed by the Petitioner. If the documents filed by the

Petitioner show that the Petitioner is either recognized by the State or Central Government or its Managing Committee is registered under the Societies Registration Act, then in that case, the vehicles/buses owned by the Petitioner-school are not required to obtain road-permits for plying the same as transport-vehicles in terms of provision of Section 66(1) of the Act.

13. Accordingly, I direct the Petitioner to file all the relevant documents before the State Transport Commissioner, Patna, (Respondent No. 2) within one month from today and after going through the same the District Transport Officer will decide the matter within one month from the date of filing of the relevant documents. Till the matter is decided by the Transport Commissioner, the vehicles of the Petitioner shall not be seized on the ground of non-holding of valid permit in terms of Section 66(1) of the Act.

14. With the aforementioned observations/directions, this writ application stands disposed of.