
(2012) 07 MP CK 0089
In the Madhya Pradesh High Court
Case No : Writ Petition No. 5239 of 2012

Tansukhlal Talati

APPELLANT

Vs

State Transport Appellate Tribunal and Others

RESPONDENT

Date of Decision : 13-07-2012

Acts Referred:

Constitution of India, 1950 — Article 227
Motor Vehicles Act, 1988 — Section 87(1)(c), 90

Citation : (2012) ILR (MP) 1872

Hon'ble Judges : Shantanu Kemkar, J;Prakash Shrivastava, J

Bench : Division Bench

Advocate : M.A. Bohra, for the Appellant; Mini Ravindran, Dy. G.A. for the Respondents No. 1 and 2 and Abhay Jain, for the Respondent No. 3., for the Respondent

Judgement

Shantanu Kemkar, J.—By this petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 29.03.2012 passed by the Regional Transport Authority (for short RTA), Ujjain as also the order dated 15.05.2012 passed by the State Transport Appellate Tribunal MP(for short STAT), Gwalior. Briefly stated, the third respondent had applied for grant of a temporary permit for the route Ujjain - Badnawar vide application dated 19.03.2012. The said application was allowed and the third respondent was granted a temporary permit u/s 87(1) (c) of the Motor Vehicles Act, 1988 (for short, the Act) by an order dated 29.03.2012 passed by the RTA, Ujjain.

2. In pursuance to the said order, a temporary permit was issued in favour of the third respondent with effect from 01.04.2012 to 31.07.2012.

3. The said order of RTA granting temporary permit in favour of the third respondent was challenged by the petitioner by filing a revision u/s 90 of the Act.

4. The STAT vide order dated 15.05.2012 passed in Revision No. 76/2012 dismissed the revision. Feeling aggrieved, the petitioner has filed this petition.

5. According to the petitioner, the grant of temporary permit on just ahead and on identical timings with his permanent permit is causing great financial loss to him and such identical timings can also not be said to be in the public interest.

6. The third respondent, on the other hand, supported the impugned orders and submitted that the petitioner himself is plying his vehicles on identical timings with other route operator. He also submitted that on this route the vehicles are plying with a very marginal difference in timings and therefore, it cannot be said that there is any adverse effect on the permanent permit of the petitioner.

7. Having considered the submissions of the learned counsel for the parties and after comparing the respective timings of both the parties, in our considered view, the timings which have been granted to the third respondent are identical while reaching at Ujjain, which cannot be said to be in the interest of the public.

8. The transport authorities while granting temporary permits for stage carriage u/s 87 (1) (c) of the Act are required to see existence of a particular temporary need on the route in question while fixing the timings, they are required to see that the timings which are being proposed and to be granted should be as per the frequency on the route. They should as far as possible avoid grant of just ahead timings and should not grant identical timings to the temporary permits with the timings of the existing operators holding permanent permits. Having regard to the aforesaid when there is apparent conflict in timings as the reaching time at Ujjain is identical, the STAT should have interfered in the order of RTA granting temporary permit and by not doing so, in our considered view, the STAT has failed to exercise jurisdiction vested in it by law. In the circumstances, we set aside the impugned orders passed by the RTA and the STAT and direct the RTA that in case an application for grant of further temporary permit is filed by the third respondent, then an opportunity of hearing to all the route operators including the petitioner be provided and if it is found that there exists particular temporary need, to fix the timings of the temporary permit in such a manner that it may not be identical with the timings of the petitioner at any place. The fixation of the timings shall be done, keeping in view the frequency on the route and the timings of permanent permit holders.

With the aforesaid directions, the petition stands allowed.

C.c. within three days.