
(2007) 11 PAT CK 0030
In the Patna High Court
Case No : CWJC No. 9221 of 2007

Upendra Kumar Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 27-11-2007

Acts Referred:

Motor Vehicles Act, 1988 — Section 68, 72

Citation : (2008) 1 PLJR 555

Hon'ble Judges : Navaniti Pd. Singh, J

Bench : Single Bench

Advocate : Randhir Kr. Singh and Sanjay Kr. Pandey, for the Appellant;
Ramashish Pd., for the Respondent

Final Decision : Allowed

Judgement

Navaniti Pd. Singh, J.—The petitioner has challenged the order, as contained in Annexure-6 being file noting and order by which a permit granted to him by the authority as constituted u/s 68 of M.V. Act in terms of Section 72 of the Act has been stayed without even hearing him or noticing him. The order-sheet shows a very dismal picture wherein the statutory body as envisaged u/s 68 of the Act has functioned more as a private body dealing with statutory matter by passing the verbal order and not in any properly constituted proceeding. This is destructive of all principle of administrative law.

2. State has filed a counter affidavit and parties have been heard.

3. The grievance of the petitioner is that he had made a statutory application for grant of permanent State Carrier Permit. The time table was duly put up. There were two objections. Both the objectors then compromised and a revised time table drawn up, as per compromise. The matter was then placed before the statutory body, which is the authority as contemplated u/s 68 of the M.V. Act on 16.4.2007. The proceedings of the authority of that day are Annexure-4. The Deputy Transport Commissioner-cum-Secretary of the authority and the

Divisional Commissioner-cum-Chairman of the authority were present in the meeting. They considered the entire matter including the compromise, which is noted in the said proceedings itself and took a decision to grant the permit. Permit was then issued. Petitioner started to ply his vehicle on basis of permit so issued. Subsequently, one person Sri Rafat Ali Khan filed an objection before the authority that the revised timing as per the compromise on basis whereof permit was issued was not published and it clashes with his timing and as such the permit should be recalled. The nothings of the file are appended as Annexure-6. It shows that the matter was in the file dealt and brought to the notice of the Chairman of the authority. The Chairman of the authority was of the opinion that the permit be stayed and the revised time be published. The order-sheet discloses that the Chairman then issued a Verbal order to the Secretary directing him to stay the permit and publish the revised timing. Accordingly the Secretary of the authority issued order, the result whereof is that the petitioner's vehicle is stranded without a permit.

4. Learned counsel for the petitioner draws the attention of this Court that all these things were being done not in the duly constituted meeting of the authority, which is a statutory body but by way of private circulation of the file and verbal order. The conduct is shameful. Petitioner submits that he had duly made an application, which was considered. Objection invited. Compromise entered into. The matter placed before the authority. Authority who considered the matter. Authority granted the permit with timing in question. Now, when the same was recalled and/or stayed, it was incumbent upon the authority to first hear the petitioner and then proceed with the matter rather than by this informal method a formal order staying the permit is passed. This Court would like to remind the authority that they are not functioning in private law arena. They are exercising public law function as statutory authority and must act accordingly with all sense of responsibility. Their conduct is contrary to the statutory obligation and duty cast on them.

5. Learned counsel for the State vehemently argued that finding that the permit was wrongly granted, the Assistant has been asked to explain. This Court wonders who is at fault. All matter was placed before the statutory body. They shut their eyes and passed order for grant of permit. It is they who are fault and not the Assistant. If anything they are at fault and could not proceed against the Assistant. Annexure 4 clearly shows that all the facts were placed on record before the statutory body, who failed to discharge their duties in a responsible manner.

6. For this merely saying that notices have been issued to the Assistant would not absolve them of their obligation.

7. Learned counsel for the private party submits that his right was being affected by the revised timing. The question is not that whether he had a right to object or not, the question is as to the legality and the propriety in the manner in which the statutory body has acted. Even though their decision may be correct, the

decision making process has been flouted. For the reasons aforesaid, this writ petition is allowed and the impugned order staying the permit is quashed with cost of Rs. 1000/- (one thousand), which shall be recovered by the State from the officer responsible for this entire shameful exercise.