



W.P. Nos.3683-2024 and connected

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**  
**WRIT PETITION No. 3683 of 2024**

***SURENDRA KUMAR AND OTHERS***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

**Appearance:**

*Shri A.S. Kutumbale- Senior Advocate with Shri Abhay Kumar Jain- Advocate for the petitioner.*

*Shri S.R. Saxena- Dy. A.G. for the State.*

*Shri Ashutosh Gondli- Advocate for the respondent No.7.*

*Shri Ambar Pare- Advocate for the respondent No.8.*

**WITH**

**WRIT PETITION No. 4212 of 2024**

***RAHUL SONKAR AND OTHERS***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

**Appearance:**

*Shri Amit Agrawal- Senior Advocate with Shri Abhay Kumar Jain- Advocate for the petitioner.*

*Shri S.R. Saxena- Dy. A.G. for the State.*

*Shri Ambar Pare- Advocate for the respondent No.6.*

**WRIT PETITION No. 4214 of 2024**

***MAHENDRA SINGH AND OTHERS***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

**Appearance:**

*Shri A.S. Kutumbale- Senior Advocate with Shri Abhay Kumar Jain- Advocate for the petitioner.*

*Shri S.R. Saxena- Dy. A.G. for the State.*



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***Shri Ambar Pare- Advocate for the respondent No.6.***

Reserved on : 19.06.2025

Pronounced on : 16.09.2025

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*These petitions having been heard and reserved for orders, coming on for pronouncement this day, the court passed the following:*

**ORDER**

Heard.

2] This order shall govern the disposal of all these three writ petitions, regard being had to the similitude of the issue involved.

3] This petition has been filed by the petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

“A] Issue appropriate writ, order or direction directing the respondents not to shift the Navlakha bus stand to *Nayta Mundla* bus stand

B] Issue appropriate writ, order or direction directing the respondents to permit the petitioners to play their vehicles from Navlakha bus stand;

C] Allow present petition;

D] That, any other relief which this Hon'ble court deems fit in the light of the facts and circumstances of the case, be also granted.”

E] That, the impugned order (Annexure-P/8) issued by Respondent no.5 may kindly be quashed being without Jurisdiction.

F] That, the impugned notification dated 26/02/2024 (Annexure-P/9) and (Annexure-P/10) issued by the Respondent no.5 may kindly be quashed being without Jurisdiction.

4] The petitioners who are bus operators have filed the present petition being aggrieved by shifting of bus stand from *Navlakha* to *Teen Imli Square* and from *Sarwate* to *Nayta Mundla*, Indore.

5] Petitioners are not aggrieved by any order in particular but are aggrieved by the action on the part of respondents in shifting / changing the



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halting and commencing place of journey of the passenger vehicles covered by the permit from *Navlakha* Bus Stand which is a notified/prescribed bus stand under the Indore-Development Scheme, 2021 (Master Plan 2021) to the unnotified place at Late Nirbhay Singh Patel Bus Stand, *Nayta Mundla*, Indore without publishing any notification to that effect nor issuing any show cause notice to the petitioners nor granting any opportunity of hearing to them.

6] Shri Amit Agrawal, learned senior counsel for the petitioner has submitted that the respondents could not have directed the petitioner to move their buses from the *Nayta Mundla* bus stand, which was built for the Inter State Bus terminal and was not notified by respondent No.5 under the Motor Vehicles Act or the Master Plan of 2021. The petitioner also argues that the notifications dated 26.02.2024 (Annexure-P/8), (Annexure-P/9) and (Annexure P/10) passed by respondent No.5, (Shri Rajesh Rathod) who was temporarily given the additional charge of Divisional Deputy Transport Commissioner/Regional Transport Authority Indore, are without jurisdiction as he was never substantially appointed as RTA, Indore.

7] It is further submitted that it is settled position of law that an officer holding current or additional charge of a post does not hold that rank and can only exercise executive/administrative powers attached with the post, but cannot exercise Statutory powers while holding the additional charge of such post. This proposition has been held by a Full Bench of this Hon'ble Court in the matter of *Girja Shankar Shukla Vs. SDO*, reported as **AIR1973MP104**. Similar proposition has also been discussed by the Supreme Court in the matter of *Ramakant Shripad Vs. Union Of India* reported as **1992 SCC (L&S) 115** by a Full Bench of the Hon'ble Supreme Court, wherein, upholding the ratio in the matter of *Girja Shankar (Supra)*,



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the Hon'ble Supreme Court has held that a person appointed to be in charge of current duties of the office did not hold the rank, and therefore, could not discharge the statutory function assigned to the post.

8] On the other hand, the prayer is vehemently opposed by Shri Shrey Raj Saxena, learned Deputy Advocate General appearing for the respondent Nos.1, 2, 5 and 6 and it is submitted that no case for interference is made out, as ISBT at *Nayta Mundla*, Indore has already been notified in the Master Plan i.e. Indore Development Plan 2021 in the year 2019 itself, and the competent authority, while exercising the powers under Section 117 of the Motor Vehicle Act 1988 has also notified the ISBT at *Nayta Mundla*, Indore as Bus stand, and *Navlakha* Bus Stand has been de-notified by the Regional Transport Authority, Indore Division, Indore vide notification dated 26.02.2024, and the same will be published in official gazette very soon.

9] Shri Shrey Raj Saxena has also submitted that the buses are now being plied from *Navlaka* Bus Stand, which is located in densely populated areas surrounded by *Bhanwarkuan*, *Vishnupuri*, where a large number of students are residing, who have come to Indore for their studies, therefore, it is not in the interest of public at large to keep the bus stand at *Navlakha*. It is denied that from Inter State Bus Terminal, Intra State buses cannot be plied. It is submitted that Intra State Buses can also be plied from ISBT, *Nayta Mundla*.

10] Counsel for the respondent has also filed an additional reply with respect to averments made by the petitioner in amended petition. It is submitted that the Full Bench of this Hon'ble Court in *Girja Shankar Shukla (Supra)* has categorically settled the position that there is a difference between a person who is appointed to officiate on a higher post



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and a person who is appointed to be in-charge of the current duties of their post in addition to his own. In the cited judgment, it has been categorically considered that if a person holds the rank then he can perform all functions of the post even if placed in charge of the duties. It is also submitted that in the present case, Shri Rajesh Rathod being the Additional District Magistrate was from the MP State Administrative Service, as such, was validly given the charge of Regional Deputy Transport Commissioner and was holding the rank of the substantial post to perform all duties.

**11] WP No.4212/2024 and WP No.4214/2024 have been filed with regard to *Sarvate Bus Stand*. The reliefs as prayed read as under:-**

A) Issue appropriate writ, order or direction restraining the respondents from shifting the petitioners to *Nayta Mundla* bus stand and further directing the respondents to shift the petitioners immediately back to *Sarvate* bus stand;

B. Issue appropriate writ, order or direction directing the respondents to permit the petitioners to ply their vehicles from *Sarvate* bus stand;

C. Allow present petition

D. That, any other relief which this Hon'ble court deems fit in the light of the facts and circumstances of the case, be also granted.

12] Shri A.S. Kutumbale, learned senior counsel for petitioners has submitted that the petitioners are in the business of stage carriage service between Indore to Bhopal and were operating the service from *Sarvate* bus stand, Indore, but due to renovation /reconstruction work of *Sarvate* bus stand in 2018, the passenger buses plying from there were temporarily shifted to different places at *Vallabh Nagar*, *Navlakha* bus stand, *Gangwal* bus stand and *Teen Imli* Square. Petitioners and other bus operators were temporarily shifted to *Teen Imli* Square.

13] On the other hand, the prayer is vehemently opposed by Shri Shrey Raj Saxena, learned Deputy Advocate General appearing for the respondents has submitted that the present petition has been filed only on



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the apprehension that they will be shifted from *Teen Imli* Bus Stand to *Nayta Mundla* Bus Stand. It is submitted that unless and until IBST which is under construction at *Kumedi* is ready and notified, the petitioners will not be shifted from *Teen Imli* Bus Stand. Further it is also submitted that the petitioner cannot be shifted back to the *Sarwate* Bus Stand, because there is no adequate place available at *Sarwate* Bus Stand for plying large buses and as per the proposal/ further planning by the Administration, the large buses will not be plied from *Sarwate* Bus Stand and only City Buses will be allowed to ply from *Sarwate* Bus Stand to suburbs of Indore City. This planning has been made for the benefit of the public at large, because it will prevent large buses from entering into the middle of the city, which causes traffic jams. It is reiterated that unless and until the proposed ISBT at *Kumedi* Indore is notified, the petitioner will not be shifted from *Teen Imli* Bus Stand. Thus, it is submitted that the present petition deserves to be dismissed as the same has been filed by the petitioner by suppressing the material facts from this Hon'ble Court.

14] Counsel for respondent No.3 has also submitted that, a policy decision cannot be subjected to judicial review unless it is contrary to legal principles, grossly arbitrary or irrational and has placed reliance on ***Directorate of Film Festivals & Ors. Vs. Gaurav Ashwin Jain & Ors., (2007)4 SCC 737.***

15] Thus, it is submitted that the policy decision of the State cannot be made to subject to judicial review as per the grounds mentioned by the Petitioners and no ground for judicial review exists. Hence, the present petition deserves to be dismissed.

16] Heard counsel for the parties and perused the record.



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17] It is apparent from the nature of the writ petitions that the petitioners have challenged the policy decisions of the State, which have been made for the better management of the traffic congestion. At this juncture, it would be fruitful to refer to the decision rendered by the Supreme Court in the case of *Directorate of Film Festivals (Supra)*, ***the relevant para 16 of the same reads as under:-***

“The scope of judicial review of governmental policy is now well defined. Courts do not and cannot act as Appellate authorities examining the correctness, suitability and appropriateness of a policy. Nor are courts Advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary”.

18] It is found that in the present batch of petitions, in W.P. No.3683/2024, the petitioners’ grievance essentially is in relation to the shifting of the *Navlakha* bus stand to the *Nayta Mundla* bus stand, whereas, in W.P. Nos.4214/2024 and 4212/2024, the relief is sought restraining the respondents from shifting the petitioners to *Nayta Mundla* bus stand, and further directing them to shift the petitioners immediately back to *Sarvate* bus stand.

19] The action of the State has been challenged on the ground of lack of jurisdiction of the respondent No.5 in passing the impugned orders, while relying upon the decision rendered by the Full Bench of this Court in the case of *Girja Shankar Shukla (Supra)*. In their replies, the respondents’ contention is that the impugned order has been passed by Shri Rajesh Rathore, being the Additional Collector, who was temporarily given the additional charge of Deputy Transport Commissioner/Regional Transport Authority, and it is stated that Shri Rajesh Rathore was already competent to be appointed as Transport Commissioner, and was not holding the charge



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without being competent to be appointed on the said post. Thus, if he was given the additional charge as the Transport Commissioner/RTA, it cannot be said that it was without jurisdiction, as he was not appointed to officiate on a higher post.

20] So far as the decision in the case of *Girja Shankar Shukla (Supra)* is concerned, the relevant paras of the same read as under:-

“The above cited decisions of the Supreme Court clearly show that the authority of *Ramratan's case* is in no way impaired; rather the view taken there-in stands reinforced. However, that decision applies only to situations like those under Article 311(1) of the Constitution or the Defence of India Act or Rules where the delegate is named and further delegation is prohibited, expressly or impliedly. In all such cases, emphasis is on rank, and the power can be exercised only by the holder of that rank. However, there are other categories of cases, like the present, where emphasis is not on rank but only on the authority to discharge a certain function. **In this latter class of cases, all that has to be examined is whether the person discharging the impugned function is so empowered or not, there being no prohibition, express or implied, against delegation and there being no such emphasis on rank.** The category to which a case belongs will depend on the nature of the function and the context in which the power is given. Thus, in every case the purpose and nature of the function, the provision conferring power and the context or setting in which it appears, have all to be seen in order to determine whether the power can be exercised only by the holder of a particular rank and none else.

From the decisions of the Supreme Court it follows that a person appointed permanently or to officiate on a post holds that rank, whereas a person who is placed only in current charge of duties of a post does not hold that rank. Accordingly, those functions or powers of the post which depend on the rank cannot be discharged by a person who is placed only in current charge of the duties of that post.”

*(Emphasis Supplied)*

21] In view of the aforesaid, when the notification has been issued by Shri Rajesh Rathore who was posted as Additional Collector, in the capacity of Regional Transport Authority, Indore, no illegality can be found in the same because otherwise also he is competent to hold the said post.





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22] In view of the same, the petitions fail on both the counts, firstly, that the policy of the State Government regarding transfer of bus stand is a governmental policy, to safeguard the public interest, and cannot be challenged, and secondly, on the ground that the notification has been passed by the competent authority.

23] Accordingly, the petitions being devoid of merits, are hereby *dismissed*.

**(SUBODH ABHYANKAR)**  
**JUDGE**

Bahar