IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 25th OF APRIL, 2025

M.P. No.5720 of 2023

NARENDRA NATH TRIPATHI

Vs.

STATE TRANSPORT AUTHORITY MADHYA PRADESH AND ANOTHER

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Appearance

Shri Ravindra Nath Tripathi – Advocate for the petitioner.

Shri N.K. Sharma – Advocate for respondent No.2.

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Reserved on : 18.11.2024
Pronounced on : 25.04.2025

ORDER

With the consent of learned counsel for the parties, the petition is finally heard.

2. Since in this petition challenge to the impugned order is made basically on the ground of locus of respondent No.2 to file a revision before the revisional authority, therefore, this Court is confining itself to decide the issue of *locus standi* of respondent No.2 so as to determine whether the revision preferred on behalf of said respondent before the revisional authority that too against the order of renewal of permit granted in favour of the petitioner was maintainable or not.

3. By means of this petition filed under Article 227 of the Constitution of India, the petitioner is assailing the validity of order dated 06.09.2023 (Annexure-P/1) passed in Revision No.71/2023 by the M.P. State Transport Appellate Tribunal, Gwalior, which was preferred by respondent

No.2 under Section 90 of the Motor Vehicles Act, 1988 (in short the 'Act, 1988').

4. As per the facts of the case, the petitioner was granted permit for plying his buses on the route Jabalpur to Nagpur, vide Regular Stage Carriage Permit No.1325/STA/STG/2012 which was renewed from time to time.

(4.1) In pursuance of renewal of permit granted in favour of the petitioner vide order dated 03.01.2023, respondent No.2 preferred a revision before the revisional authority saying that renewal of permit has been obtained by the petitioner by suppressing material facts with regard to outstanding dues and, in turn, the revisional authority vide impugned order dated 06.09.2023 has allowed the revision and set aside the order of renewal of permit dated 03.01.2023 granted in favour of the petitioner, hence, this petition.

5. Learned counsel for the petitioner has submitted that the challenge made before the revisional authority was opposed by the present petitioner on two counts; firstly, that the revision was filed belatedly that too without assigning any cogent reason for condoning the delay and secondly, that respondent No.2 had no locus to challenge the order of renewal of permit passed in favour of the petitioner because he does not fall within the ambit of aggrieved person to whom right has been given to exercise the power of revision provided under Section 90 of the Act 1988. According to learned counsel for the petitioner, respondent No.2 being a route operator though plying his buses, but he has no locus to challenge the order of renewal of permit granted in favour of the petitioner. In support of his submissions, learned counsel for the petitioner has placed reliance upon various decisions of the Supreme Court saying that on each and every occasion, the competitor cannot be said to be an aggrieved person. To bolster his

submissions, he has placed reliance upon a case of Supreme Court reported in **AIR 1992 SC 443 [Mithlesh Garg Vs. Union of India and others],** wherein the Supreme Court has observed as under:-

> ‘**5.** The Parliament in its wisdom has completely effaced the above features. The scheme envisaged under Sections 47 and 57 of the old Act has been completely done away with by the Act. The right of existing operators to file objections and the provision to impose limit on the number of permits have been taken away. There is no similar provision to that of Section 47 and Section 57 under the Act. The Statement of Objects and Reasons of the Act shows that the purpose of bringing in the Act was to liberalise the grant of permits. Section 71(1) of the Act provides that while considering an application for a stage carriage permit the Regional Transport Authority shall have regard to the objects of the Act. Section 80(2), which is the harbinger of liberalisation, provides that a Regional Transport Authority shall not ordinarily refuse to grant an application for permit of any kind made at any time under the Act. There is no provision under the Act like that of Section 47(3) of the old Act and as such no limit for the grant of permits can be fixed under the Act. There is, however, a provision under Section 71(3)(a) of the Act under which a limit can be fixed for the grant of permits in respect of the routes which are within a town having population of more than five lakhs.’

Reliance has further been placed upon a case reported in **(1970) 1 SCC 575 [Nagar Rice & Floor Mills and others Vs. N. Teekappa Gowda & Bros. And others]**, wherein the Supreme Court dealing with the issue of locus has observed as under:-

> ‘**10.** But Mr Gokhale for the respondents contended that in granting the permission under Section 8(3)(c) the authority was bound to take into account matters which govern the issue of a permit under Section 5(4) of the Act. Counsel submitted that sub-section (3)(c) of Section 8 was enacted with a view to ensure adequate milling facilities and to prevent unfair competition and on that account it is provided that when the location of an existing rice mill has to be shifted, the authority had to take into consideration the number of rice mills operating in the locality; the availability of power and water supply for the rice mill in respect of which a permit is applied for; whether the functioning of the rice mill in respect of which a permit is applied for would cause substantial unemployment in the locality; and such other particulars as may be prescribed. According to counsel, since the Act was intended to regulate the carrying on of business of rice mills in the country, it was implicit in Section 8(3)(c) that the authority sanctioning the change of location of a rice mill shall consider whether another person was by the shifting likely to be prejudiced thereby.

This, counsel says, the Director did not consider, and on that account the order is liable to be set aside because the right of the respondents is infringed. This argument was not advanced before the High Court, and, in our judgment, has no substance. The consideration which are prescribed by sub-section (4) of Section 5 only apply to the grant of a permit in respect of a new rice mill or a defunct rice mill. They have no application in considering the shifting the location of an existing rice mill. In respect of a new or defunct rice mill a permit and a licence are both required; in respect of an existing rice mill only a licence is required. The conditions prescribed by sub-section (4) of Section 5 only apply to the grant of a permit and not to a licence. By Section 8(3)(c) it is made one of the conditions of the licence that the location of the rice mill shall not be shifted without the previous permission of the Central Government. It is true that the appropriate authority clothed with the power must consider the expediency of permitting a change of location. But there is no statutory obligation imposed upon him to take into consideration the matters prescribed by sub-section (4) of Section 5 in granting the permission to change the location.

11. The appellants had been carrying on business in milling rice for more than 30 years and the mill was by reason of the proposal to submerge the site in the Sharavathi Hydro-Electric Project had to be shifted from its location. The State allotted another piece of land to the appellants and did not acquire their machinery and permitted erection of their rice mill building on the new location, this was done with a view to cause minimum hardship to the appellants arising in consequence of the proposed construction of the dam resulting in submerger of their land. The State also granted permission to the appellants to change the location under the Rice Milling Industry (Regulation) Act, 1958. The permission cannot be said to be granted without consideration of the relevant circumstances.'

He has also placed reliance upon a case reported in **(1976) 1 SCC 671 [Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and others]**, in which, the Supreme Court has observed as under:-

'45. Having seen that the appellant has no standing to complain of injury, actual or potential, to any statutory right or interest, we pass on to consider whether any of his rights or interests, recognised by the general law has been infringed as a result of the grant of no-objection certificate to the respondents? Here, again, the answer must be in the negative.

46. In para 7 of the writ petition, he has stated his cause of action, thus:

"The petitioner submits that ... he owns a cinema theatre in Mohmadabad which has about a small population of 15,000 persons as stated above and there is no scope for more than one cinema theatre in the town. He has, therefore, a commercial interest in seeing to it that other persons are not granted a no-objection certificate in

violation of law."

47. Thus, in substance, the appellant's stand is that the setting up of a rival cinema house in the town will adversely affect his monopolistic commercial interest, causing pecuniary harm and loss of business from competition. Such harm or loss is not wrongful in the eye of law, because it does not result in injury to a legal right or a legally protected interest, the business competition causing it being a lawful activity. Juridically, harm of this description is called damnum sine injuria, the term injuria being here used in its true sense of an act contrary to law. [Salmond on Jurisprudence, 12th Edn. by Fitzgerald, p. 357, para 85] The reason why the law suffers a person knowingly to inflict harm of this description on another, without holding him accountable for it, is that such harm done to an individual is a gain to society at large.

* * *

49. It is true that in the ultimate analysis, the jurisdiction under Article 226 in general, and certiorari in particular is discretionary. But in a country like India where writ petitions are instituted in the High Courts by the thousand, many of them frivolous, a strict ascertainment, at the outset, of the standing of the petitioner to invoke this extraordinary jurisdiction, must be insisted upon. The broad guidelines indicated by us, coupled with other well-established self-devised rules of practice, such as the availability of an alternative remedy, the conduct of the petitioner etc. can go a long way to help the courts in weeding out a large number of writ petitions at the initial stage with consequent saving of public time and money.'

6. On the other hand, learned counsel for respondent No.2 opposing the submissions advanced by learned counsel for the petitioner has placed reliance upon a case reported in **(2005) 3 SCC 683 [Sai Chalchitra Vs. Commissioner, Meerut Mandal and others]**, wherein the Supreme Court has observed as under:-

'5. After hearing the counsel for the parties, we are of the opinion that the High Court clearly erred in dismissing the writ petition filed by the appellant on the ground of locus standi. The appellant being in the same trade as Respondent 3 has a right to seek the cancellation of the licence granted to Respondent 3 being in violation of the Act and the Rules. '

He has further placed reliance upon a case reported in **(2006) 3 SCC 413 [Kanchan and others Vs. State Transport Appellate Tribunal and others]**, in which, the Supreme Court has observed as under:-

'**4.** We do not consider this to be a fit case for interference. The findings of the High Court about the mala fides of the STA are clearly

> borne out from the records seen by the Tribunal. It is to be noted that the Tribunal and the High Court have recorded categorical findings that there were not even applications for grant of permits in such cases. It baffles one as to how the permits could be granted even without application. The STA for reasons best known to it, did not produce all the 48 files relating to the grant of permits. A plea was taken that some of the files were taken by the Vigilance Authorities inquiring into the allegations of corruption. Be that as it may, the fact remains that in some cases elaborated by the Tribunal and the High Court, the applications were not there. The stand of learned counsel for the appellants that relief may be denied to only those persons, is clearly unacceptable. While deciding the question of mala fides, the very fact that in certain cases, the authorities have acted without application of mind, is itself sufficient to attach vulnerability to the action. Therefore, we do not think it necessary to go into the other questions and the appeals are dismissed. All the interim orders consequently passed stand vacated. The contempt proceedings initiated shall stand quashed.'

Further, he has placed reliance upon an order passed by this Court in **Writ Petition No.4908 of 2014 [M/s Parihar Transport Company Vs. The State Transport Appellate Tribunal and others]**, in which, the Court has observed as under:-

> '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.
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> Accordingly, finding no ground, the petition is dismissed.'

However, learned counsel for respondent No.2 has filed several other decisions so as to satisfy the Court that the revisional Court has rightly entertained the revision filed by respondent No.2 and there is nothing illegal in the same.

7. I have heard the arguments advanced by learned counsel for the parties and perused the record.

8. Before deciding the dispute involved in the case, it is apt to see the language used in Section 90 of the Act, 1988, which reads thus:-

> ‘**90. Revision.**—The State Transport Appellate Tribunal may, on an application made to it, call for the record of any case in which an order has been made by a State Transport Authority or Regional Transport Authority against which no appeal lies, and if it appears to the State Transport Appellate Tribunal that the order made by the State Transport Authority or Regional Transport Authority is improper or illegal, the State Transport Appellate Tribunal may pass such order in relation to the case as it deems fit and every such order shall be final:
>
> Provided that the State Transport Appellate Tribunal shall not entertain any application from a person aggrieved by an order of a State Transport Authority or Regional Transport Authority, unless the application is made within thirty days from the date of the order:
>
> Provided further that the State Transport Appellate Tribunal may entertain the application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by good and sufficient cause from making the application in time:
>
> Provided also that the State Transport Appellate Tribunal shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.’

A plain reading of aforesaid provision makes it amply clear that the revision application shall not be entertained by the STAT if it is not filed by the aggrieved person. As per the petitioner, though respondent No.2 being a competitor is plying his buses, but for renewal of permit of the petitioner, he cannot be said to be an aggrieved person before the STAT. According to the petitioner, when he moved an application for grant of renewal of permit, neither respondent No.2 filed any objection nor moved any application seeking permit for the same route and even for same timing. According to him, from the aforesaid, it is apparent that respondent No.2 has nothing to do with the permit granted in his favour.

9. However, in a case reported in **AIR 2021 SC 2637 [Sesh Nath Singh and another Vs. Baidyabati Sheoraphuli Co-operative Bank Limited and another]**, the Supreme Court has observed as under:-

> ‘62. A plain reading of Section 5 of the Limitation Act makes it amply clear that, it is not mandatory to file an application in writing before relief can be granted under the said section. Had such an application been mandatory, Section 5 of the Limitation Act would have expressly provided so. Section 5

would then have read that the court might condone delay beyond the time prescribed by limitation for filing an application or appeal, if on consideration of the application of the appellant or the applicant, as the case may be, for condonation of delay, the court is satisfied that the appellant applicant had sufficient cause for not preferring the appeal or making the application within such period. Alternatively, a proviso or an Explanation would have been added to Section 5, requiring the appellant or the applicant, as the case may be, to make an application for condonation of delay. However, the court can always insist that an application or an affidavit showing cause for the delay be filed. No applicant or appellant can claim condonation of delay under Section 5 of the Limitation Act as of right, without making an application.'

In the aforesaid case, the Supreme Court has in fact clarified that a person aggrieved is the person who has denied certain rights which were granted to him by law, but on the other hand, a person who is complainant and his legal rights are not being curtailed or violated, cannot be said to be an aggrieved person.

10. In **Civil Appeal No.7728 of 2012 [Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra]**, the Supreme Court has observed as under:-

'7. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the Authority/Court, that he falls within the category of aggrieved persons.

Only a person who has suffered, or suffers from legal injury can challenge the act/action/order etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the Authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that, the relief prayed for must be one to enforce a legal right. Infact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. (Vide : State of Orissa v. Madan Gopal Rungta, AIR 1952 SC 12; Saghir Ahmad & Anr. v. State of U.P., AIR 1954 SC 728; Calcutta

Gas Company (Proprietary) Ltd. v. State of West Bengal & Ors., AIR 1962 SC 1044; Rajendra Singh v. State of Madhya Pradesh, AIR 1996 SC 2736; and Tamilnad Mercantile Bank Shareholders Welfare Association (2) v. S.C. Sekar & Ors., (2009) 2 SCC 784).

8. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must therefore, necessarily be one, whose right or interest has been adversely affected or jeopardised. (Vide: Shanti Kumar R. Chanji v. Home Insurance Co. of New York, AIR 1974 SC 1719; and State of Rajasthan & Ors. v. Union of India & Ors., AIR 1977 SC 1361).

9. In Anand Sharadchandra Oka v. University of Mumbai, AIR 2008 SC 1289, a similar view was taken by this Court, observing that, if a person claiming relief is not eligible as per requirement, then he cannot be said to be a person aggrieved regarding the election or the selection of other persons.

* * *

11. This Court, even as regards the filing of a habeas corpus petition, has explained that the expression, 'next friend' means a person who is not a total stranger. Such a petition cannot be filed by one who is a complete stranger to the person who is in alleged illegal custody. (Vide: Charanjit Lal Chowdhury v. The Union of India & Ors., AIR 1951 SC 41; Sunil Batra (II) v. Delhi Administration, AIR 1980 SC 1579; Mrs. Neelima Priyadarshini v. State of Bihar, AIR 1987 SC 2021; Simranjit Singh Mann v. Union of India, AIR 1993 SC 280; Karamjeet Singh v. Union of India, AIR 1993 SC 284; and Kishore Samrite v. State of U.P. & Ors., JT (2012) 10 SC

393).

12. This Court has consistently cautioned the courts against entertaining public interest litigation filed by unscrupulous persons, as such meddlers do not hesitate to abuse the process of the court. The right of effective access to justice, which has emerged with the new social rights regime, must be used to serve basic human rights, which purport to guarantee legal rights and, therefore, a workable remedy within the framework of the judicial system must be provided. Whenever any public interest is invoked, the court must examine the case to ensure that there is in fact, genuine public interest involved. The court must maintain strict vigilance to ensure that there is no abuse of the process of court and that, "ordinarily meddlesome bystanders are not granted a Visa". Many societal pollutants create new problems of non-redressed grievances, and the court should make an earnest endeavour to take up those cases, where the subjective purpose of the lis justifies the need for it. (Vide: P.S.R. Sadhanantham v. Arunachalam & Anr., AIR 1980 SC 856; Dalip Singh v. State of U.P. & Ors., (2010) 2 SCC 114; State of Uttaranchal v. Balwant Singh Chaufal & Ors., (2010) 3 SCC 402; and Amar Singh v. Union of India

& Ors., (2011) 7 SCC 69)'

As per the observation made by the Supreme Court in the above case, it is clear that a person raised grievance must show how he has suffered irreparable injury. A stranger having no right whatsoever to any post or property cannot be permitted to interfere into the affairs of others. Ultimately, the Supreme Court relying upon several decisions has held that a person not directly affected, cannot be said to be a person aggrieved. Here in this case, respondent No.2 failed to demonstrate as to why renewal made in favour of the petitioner is not proper and how it causes prejudice to him and somehow violating his legal rights. Merely on the ground that respondent No.2 is a competitor, he is having no right to raise an objection saying that the renewal of permit has been granted improperly. If at all, respondent No.2 has any objection with regard to illegality committed, then he could apprise the respective authority about the said illegality and then it is for the authority to take note of the fact whether renewal of permit has been granted properly or not. From the facts and circumstances of the case, it is clear that respondent No.2 has no legal grievance with the renewal of permit granted in favour of the petitioner and if that is so, even though, he is not a party who can approach the authority by availing the statutory remedy of revision. While exercising the power of revision, it is his duty to prove violation of his judicial and enforceable rights but mere personal inconvenience; mental agony or psychological suffering does not confer any right to him to avail the remedy of revision which restrained other than an aggrieved person to avail the same. In the case at hand, respondent No.2 does not show any personal legal right causing any prejudice to him but only pointing out that certain irregularities were committed while granting renewal of permit, however, if such type of person is permitted to avail the remedy of revision, then it may create a hazardous situation before the authorities because in that case any Tom,

Dick and Harry, for settling their personal grievance, can challenge each and every order of statutory authority passed in favour of any person. Now a days, it has become a fashion to show disagreement with the order of statutory authority, if any, is passed in favour of any person and challenge the same so as to keep the holder of the order in trouble and in number of occasions, such type of practice is being adopted to settle the personal score. When a word 'person aggrieved' is used and confined in the statute itself, then it has to be construed in a positive manner but it cannot be allowed to be misused by any other person in any manner whatsoever.

11. From the backdrop of aforesaid discussion, I have no hesitation to hold that respondent No.2, against the renewal of permit granted in favour of the petitioner, has no locus to file the revision before the revisional authority. Since the impugned order passed by the revisional authority on 06.09.2023 (Annexure-P/1) is not sustainable in the eyes of law, therefore, it is hereby set aside.

12. Resultantly, the petition filed by the petitioner stands **allowed**.

(SANJAY DWIVEDI)
JUDGE

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