

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

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 5th OF JANUARY, 2024

WRIT PETITION No. 32079 of 2023

BETWEEN:-

**BALVINDER SINGH BHATIA S/O SHRI
KHAJAN SINGH BHATIA, AGED ABOUT 45
YEARS, OCCUPATION: BUS OPERATOR, R/O
MAIN ROAD JHIRNIRIYA DISTRICT
KHARGON AT PRESENT TEMPORARY R/O
NEAR BUS STAND BURHANPUR DISTRICT
BURHANPUR (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI SUBODH KUMAR PANDEY- ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH
THROUGH THE PRINCIPAL SECRETARY
GOVERNMENT OF MADHYA PRADESH
TRANSPORT DEPARTMENT
MANTRALAYA VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)**
- 2. STATE TRANSPORT AUTHORITY OF
MADHYA PRADESH THROUGH ITS
SECRETARY, SIROL HILLS, GWALIOR
(MADHYA PRADESH)**
- 3. STATE OF MAHARASHTRA THROUGH
SECRETARY DEPARTMENT OF
TRANSPORT MANTRALAYA BANDRA
MUMBAI DISTRICT MUMBAI
(MAHARASHTRA)**
- 4. STATE TRANSPORT AUTHORITY
MAHARASHTRA THROUGH ITS**

SECRETARY, MTNL BUILDING
FOUNTAIN BUILDING -2, 5TH FLOOR,
M.G. ROAD FORT MUMBAI
(MAHARASHTRA)

5. TRANSPORT COMMISSIONER OF
MAHARASHTRA, 5TH FLOOR FOUNTAIN
TELECOM BUILDING -2 MG ROAD,
MUMBAI (MAHARASHTRA)
6. DEPUTY REGIONAL TRANSPORT
OFFICER, JALGAON, DISTRICT
JALGAON (MAHARASHTRA)
(MAHARASHTRA)
7. IN-CHARGE BOARDER CHECK POST
KARKI MUKTINAGAR JALGAON,
DISTRIC JALGAON (MAHARASHTRA)
(MAHARASHTRA)

.....RESPONDENTS

(BY SHRI SWAPNIL GANGULY- DEPUTY ADVOCATE GENERAL)

*This petition coming on for admission this day, the court passed the
following:*

ORDER

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

“(i) The Hon’ble Court may kindly be graciously pleased to issue a writ of mandamus directing the respondent No. 4 to decide the application dated 18.12.2023 (Annexure P/5) for countersign of interstatal temporary stage carriage permits of the petitioner as well as grant the counter signature as per resicipocal agreement. The petitioner also seeking directing to the respondent authorities to

not stopped the petitioner vehicle on the ground of non countersignature of the said permit.

(ii) Any other reliefs which this Hon'ble Court deem fit in the circumstances of the case, may also be granted to the petitioner.”

2. It is submitted by counsel for petitioner that he is a transporter and wants to ply his bus on the route Khandwa to Jalgoan via Sirgar, Burhanpur and *vice versa*.
3. The respondent No. 2 has already signed the interstate permit, but respondent No. 4 i.e. State Transport Authority Maharashtra has not counter signed the permit so far and the application is pending. Accordingly, it was prayed that respondent No. 4 be directed to counter sign the said permit.
4. Considered the submissions made by counsel for petitioner.
5. Article 226 of Constitution of India reads as under:-

“226. Power of High Courts to issue certain writs.—(1) Notwithstanding anything in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorar*, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government

or authority or the residence of such person is not within those territories.

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without—

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard,

makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of Article 32.”

6. From plain reading of this provision, it is clear that if a part of cause of action has arisen within different High Courts, then every High Court shall have a jurisdiction to entertain the said writ petition.

7. In the present case, there is a reciprocal agreement between the State of Madhya Pradesh and State of Maharashtra and in case of

interstate route the permit is required to be signed by authorities of both the States.

8. In the present case, it is the case of petitioner that respondent No. 2 has already signed the permit but the application for counter signature is pending before respondent No. 4. Accordingly, a direction has been sought for respondent No. 4 to counter sign the permit.

9. Whether a permit is necessary or not is the prerogative of the authority to consider the said aspect.

10. Respondent No. 4 is situated within the territorial jurisdiction of High Court of Bombay.

11. The Supreme Court in the case of **Kusum Ingots & Alloys Ltd. v. Union of India**, reported in **(2004) 6 SCC 254** has propounded the doctrine of forum conveniens.

12. The Supreme Court in the case of **State of Goa Vs. Summit Online Trade Solutions Private Limited and Others**, reported in **(2023) 7 SCC 791** has held as under:-

“16. The expression “cause of action” has not been defined in the Constitution. However, the classic definition of “cause of action” given by Lord Brett in *Cooke v. Gill* [*Cooke v. Gill*, (1873) LR 8 CP 107] that “*cause of action means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court*”, has been accepted by this Court in a couple of decisions. It is axiomatic that without a cause, there cannot be any action. However, in the context of a writ petition, what would constitute such “cause of action” is the material facts which are imperative for the writ petitioner to plead and prove to obtain relief as claimed.”

13. The basic cause of action which has arisen in the present case is

on account of pendency of application for counter signature before respondent No. 4.

14. Merely because respondent No. 2 has signed the permit cannot be said to be a part of cause of action and even if it is held that the signature by respondent No. 2 is a part of cause of action, then still this Court after applying the doctrine of *forum conveniens* can refuse to entertain the writ petition because the major part of cause of action or only relief which has been sought by petitioner is against respondent No. 4 which is situated within the territorial jurisdiction of Bombay High Court.

15. The Supreme Court in the case of **State of Goa (supra)** has held as under:-

“**21.** Even otherwise, the High Court was not justified in dismissing the interim applications. Assuming that a slender part of the cause of action did arise within the State of Sikkim, the concept of *forum conveniens* ought to have been considered by the High Court. As held by this Court in *Kusum Ingots & Alloys Ltd. v. Union of India* [*Kusum Ingots & Alloys Ltd. v. Union of India*, (2004) 6 SCC 254] and *Ambica Industries v. CCE* [*Ambica Industries v. CCE*, (2007) 6 SCC 769] , even if a small part of the cause of action arises within the territorial jurisdiction of a High Court, the same by itself could not have been a determinative factor compelling the High Court to keep the writ petitions alive against the appellant to decide the matter qua the impugned notification, on merit.”

16. This Court in the case of **Moh. Abid Siddique Vs. State of M.P. and Others** decided on 28.09.221 in **W.P. No.19264/2021 (Gwalior Bench)** has held as under:

“According to the petitioner, the counter signature is to be signed by STA UP. It is true that since the petitioner is seeking stage carriage permit for Gwalior to Delhi route, and therefore, a part of cause of action may have arisen within the territorial jurisdiction of this Court but since for renewal of regular stage carriage permit is to be countersigned by the STA UP. The Supreme Court in case of **Kusum Ingots & Alloys Ltd. v. Union of India**, reported in (2004) 6 SCC 254, has held that merely because a small part of cause of action has arisen within the territorial jurisdiction of High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merits. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. Since the STA UP falls within the territorial jurisdiction of Allahabad High Court, therefore, this petition is dismissed with liberty to the petitioner that, if so advised, he can approach the Allahabad High Court for redressal of his grievance.”

17. Thus after applying the principle of doctrine of forum conveniens, this Court declines to entertain the jurisdiction with an observation that in case if petitioner so desires, then he can approach the High Court of Bombay for redressal of his grievance.

18. With aforesaid observations, petition is **disposed of**.

(G.S. AHLUWALIA)
JUDGE

AL