



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE G. S. AHLUWALIA
ON THE 3rd OF SEPTEMBER, 2024
WRIT PETITION No. 22923 of 2024
SOMIL JAISWAL
Versus
THE STATE OF MADHYA PRADESH AND OTHERS**

Appearance:

Shri Ashish Rawat- Advocate for petitioner.

Shri Ritwik Parashar- Government Advocate for respondent/State.

Shri Subodh Kumar Pandey- Advocate for caveator.

ORDER

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

“7.1 Allot the petition and issue a writ of certiorari quashed the impugned order dated 30.07.2024 passed by the respondent No. 2 (Annexure P/4) and subsequent temporary permit issued by the respondent no. 2 on the route Pipariya to Nagpur to the respondent no. 3 which is beyond reciprocal agreement executed between the State of M.P. and Maharashtra dated 01.03.2007 as the same is contrary to law laid down by the Hon’ble Apex Court in the case of Ashwani Kumar (supra) AIR-1999 SC page 3888 be quashed (Annexure P/5) on his vehicle No. MP28ZF-6638.

7.2 Allow the petition and to issue a writ of mandamus restraining the respondent no. 2 to grant temporary permit on the route Pipariya to Nagpur beyond reciprocal agreement executed between State of M.P. and Maharashtra dated 01.03.2007;

7.3 Any other appropriate orders against respondents be issued in favour of the petitioner with



cost of the petition.”

2. By this petition, the petitioner has challenged the temporary permit granted to the respondent No. 3 to ply his bus on Pipariya-Nagpur route through Chhindwara which is valid up to 30th of September, 2024.
3. It is submitted by counsel for petitioner that this petition is dully covered by order passed by this Court on 02.09.2024 in the case of **Om Prakash Jaiswal Vs. The State of M.P. and Others** in **W.P. No. 24085/2024**, therefore, this petition be also disposed of in the terms and conditions of the order passed in the case of **Om Prakash Jaiswal (supra)**.
4. The counsel for the respondents also conceded that the case in hand is duly covered by order passed in the case of **Om Prakash Jaiswal (supra)**.
5. Heard learned counsel for the parties.
6. This Court in the case of **Om Prakash Jaiswal (supra)** has held as under:-

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

“7.1 Allow the petition and issue a writ of certiorari quashing the impugned temporary permits dated 07.08.2024 issued by respondent no. 2 (Annexure P/6 & P/7) in favour of respondent no. 3 & 4 on the route Shahdol to Nagpur on their vehicle no. MP52ZA-3227 and MP52ZA-6399 (Permit No. 263/STA/24 and 260/STA/24).

7.2 Allow the writ petition and for issue a writ of mandamus restraining the respondent no. 2 to



consider application for grant of temporary permits or to grant temporary permit under Section 87(1)(c) and 88(7) of the Motor Vehicle Act, 1988 on the route Nagpur to Shahdol which is an inter-statal route which is beyond reciprocal agreement executed between the State of M.P. and State of Maharashtra dated 01.03.2007;

7.3 Any other appropriate orders against respondents be issued in favour of the petitioner with cost of the petition.”

2. It is submitted by counsel for petitioner that an application was filed by respondent Nos. 3 and 4 for grant of temporary permit to ply the bus on Nagpur to Shahdol route via Seoni, Mandla, Dindori, Burar. It is submitted by counsel for petitioner that the said route is not the part of reciprocal agreement, therefore, no regular stage carriage permit can be granted to ply bus on the said route. However, for the last three years the authorities are granting temporary permit to ply the bus on Nagpur to Shahdol route thereby giving a complete go by to the provisions of Motor Vehicle Act which prohibits the grant of regular stage carriage permit to ply a bus on the route which is not included in the reciprocal agreement.

3. It is fairly conceded by counsel for the respondents that Nagpur to Shahdol route via Seoni, Mandla, Dindori, Burar is not included in the reciprocal agreement. However, it is submitted that as per the provisions of Section 88 (7) of Motor Vehicle Act a Regional Transport Authority of one region may issue a temporary permit under section 87 to be valid in another region or State with the concurrence, given generally or for the particular occasion, of the Regional Transport Authority of that other region or State Transport Authority of that other State, as the case may be.

4. It is submitted that in the present case the concurrence has been granted by Maharashtra Authority and even the temporary permit has been counter signed.



5. Heard learned counsel for the parties.

6. The Supreme Court in the case of **Ashwani Kumar and Another Vs. Regional Transport Authority, Bikaner and Another**, reported in **AIR 1999 SC 3888** has held as under:-

“A. Motor Vehicles- Motor Vehicles Act, 1988- S.88(1), (5) & (6)- Inter-State permit-Conditions precedent for issuance of – Existence of an inter-State route reciprocally created by the States concerned, held, is such a condition precedent- An inter-State route cannot be created unilaterally by one State or an authority therein – Hence, in absence of an inter-State route, grant of inter-State permits, held, illegal- Interpretation of Statutes- External aids- History of legislation- Taken into consideration-Motor Vehicles Act, 1939- Interpretation of Statutes- Statement of Objects and Reasons- Taken into consideration.”

7. It is submitted that undisputedly the route in question is not included in the reciprocal agreement. By referring to Sr. No. 26 and 27 of Agenda dated 31.07.2024, counsel for petitioner submitted that even the competent authority was aware of the fact that Nagpur- Shahdol route is outside the reciprocal agreement and thus should not have granted temporary permit. Whereas, it is the case of the respondents No. 3 and 4 that the concurrence has been awarded by the Maharashtra Authorities.

8. However, during the course of arguments, it was fairly conceded by counsel for respondents No. 3 and 4 that temporary permit cannot be granted as a substitute of regular stage carriage permit and the regular stage carriage permit cannot be granted to ply a bus on the route which is outside the reciprocal agreement. Thus, it is clear that what cannot be done directly is being done indirectly.

9. Once, the authorities cannot issue a regular stage carriage permit to ply a bus on a route which is outside the reciprocal agreement, then the said provision cannot be



bypassed by regularly granting temporary permit to ply the bus on such route. Hence, this Court is of considered opinion that the grant of temporary permit continuously cannot be appreciated.

10. Under these circumstances, it is made clear that for the time being it would not be appropriate for this Court to quash the temporary permit.

11. However, respondents No. 2 is directed that no fresh temporary permit shall be granted after 31st of October, 2024 unless and until the aforesaid route is included in the reciprocal agreement.

12. With aforesaid observation, the petition is finally **disposed of.**”

7. Accordingly, this petition is also **disposed of** in light of order passed in the case of **Om Prakash Jaiswal (supra)** and it is directed that the no fresh temporary permit should be granted unless and until the said route is included in the reciprocal agreement.

8. With aforesaid observation, the petition is **disposed of.**

(G.S. AHLUWALIA)
JUDGE

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