



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE G. S. AHLUWALIA
ON THE 2nd OF SEPTEMBER, 2024
WRIT PETITION No. 24085 of 2024
OM PRAKASH JAISWAL
Versus
*THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Ashish Rawat- Advocate for petitioner.

Shri Abhishek Singh- Government Advocate for respondent/State.

Shri Brajesh Kumar Dubey- Advocate for respondent No. 3.

ORDER

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**.

(G.S. AHLUWALIA)
JUDGE

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