CGHC010296092024 2026:CGHC:35822

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 4432 of 2024

Order Reserved on 14.07.2026

Order Delivered on 13.08.2026

Abhinandan Singh S/o Lakhpati Singh Aged 30 Years, Bus Operator, R/o Ring Road, Namnakala, Ambikapur, District Sarguja, Chhattisgarh.

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Secretary, Department Of Transport, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh.

2 - State Transport Authority Atal Nagar, Nava Raipur, Mantralaya, Raipur, Chhattisgarh.

3 - Mohd. Naushad S/o Mohd. Khushbag Bus Operator, Kharsia Naka, Ambikapur, Chhattisgarh

4 - Javed Aalam Bus Operator, Kharsia Naka, Ambikapur, Chhattisgarh

5 - Irshad Aalam Bus Operator, Kharsia Naka, Ambikapur, Chhattisgarh

6 - Vijay Gupta Bus Operator, Tapkara, District Jashpur, Chhattisgarh

7 - Junaid Khan Bus Operator, Kharsia Naka, Ambikapur, Chhattisgarh

... Respondent(s)

(Cause Title downloaded from CIS Periphery)

For Petitioner(s)	**:**	Mr. BL Dembra, Advocate
For Respondent(s)	**:**	Mr. Soumitra Kesharwani, Panel Lawyer

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

CAV Order

1. By way of the present petition, the petitioner – a bus operator, assails the order dated 2.7.2024 passed by the State Transport Appellate Tribunal, Raipur, Chhattisgarh (hereinafter referred to as "the STAT"), whereby the appeal preferred by the petitioner was dismissed, thereby affirming the order dated 18.1.2024 passed by the State Transport Authority, Chhattisgarh (hereinafter referred to as "the STA"). By the aforesaid orders, the application filed by the petitioner for grant of Inter-State permanent stage carriage permit permit to ply his vehicle on the Ambikapur to Bokaro (Jharkhand) route was rejected. The rejection was on the basis of various grounds, mainly including the pending tax dues against the father of the petitioner namely Lakhpati Singh.
2. The petitioner has sought the following reliefs in this petition :

> *10.1 The Hon'ble Court may kindly be pleased to call for the records from the authorities with respect to petitioner and quash/set-aside the order dated 02.07.2024 in Appeal no. A03/2024*

by the State Transport Appellate Tribunal Raipur and consequently the order dated 18.01.2024 passed by the respondent no. 2 be quashed.

10.2. That, the Hon'ble Court may further be pleased to direct the respondent no.2 to allow the application of the petitioner for grant of inter-state permanent stage carriage on the route Ambikapur to Bokaro via Kunkuri, Jahspur, Gumla, Gola with one single trip daily within specified time as this Court deems fit.

10.3 Any other relief which this Hon'ble Court may deems fit and proper looking to the facts and circumstances of the case may also be awarded to the petitioner including the cost and expenses of this petition.

3. In a nutshell, the facts, as projected by the petitioner, are that the petitioner applied for grant of Inter-State permanent stage carriage permit on the route from Ambikapur to Bokaro (Jharkhand) via Kunkuri, Jashpur, Ranchi, Ramgarh, Gola, Petarwar, Jainamod. Objections were invited by the STA concerned. After considering the objections and hearing the petitioner as well as other bus operators, the STA dismissed the application of the petitioner. The sole ground for rejection was the father of the petitioner namely Lakhpati Singh owed unpaid tax dues amounting to Rs.28 Lakhs to Regional Transport Office (RTO), Raipur and therefore, the petitioner was held ineligible for grant of permit only on account of being a family member. Aggrieved by the aforesaid order, the petitioner preferred an appeal before the STAT, *inter alia* challenging the order passed by the STA as contrary to law. It was also contended that no tax dues are outstanding against the father

of the petitioner. In fact, the father of the petitioner had already challenged the alleged tax liability before this Court by filing WPC No.3676/2024 on the ground that he has overpaid taxes, which are liable to be adjusted and refunded to him. In the aforesaid case, this Court vide order dated 24.7.2024 directed the concerned authority to consider the claim of the father of the petitioner and pass appropriate orders. Further, even assuming that tax dues are pending against a family member, such liability cannot be fastened upon the petitioner in the absence of cogent evidence establishing that the business is run as a joint family enterprise. Hence, the rejection of the permit application only on the ground of alleged tax arrears against the father of the petitioner is illegal and arbitrary.

4. Mr. BL Dembra, learned counsel for the petitioner submits that the ground for rejection of the permit is not in accordance with law. He submits that no tax liabilities are outstanding against the father of the petitioner. In fact, the father of the petitioner has overpaid tax and applied for adjustment/refund of the excess amount. Since the concerned authority did not refund the surplus tax, the father of the petitioner approached this Court by filing WPC No.3676/2024, wherein it was directed vide order dated 24.7.2024 that the authority shall decide the claim of refund/adjustment of excess tax paid by the petitioner for his vehicle and pass appropriate orders in this regard. He further submits that in an identical matter, the High Court of Judicature at Patna considered this issue in a judgment rendered in the matter of **Krishna Kumar**

Jha Vs. State of Bihar and others reported **in 2024 Supreme (Pat) 99**, holding that renewal of license cannot be rejected, if any amounts are payable to some other third party. He submits that under the Motor Vehicles Act, 1988 (in short "the Act, 1988"), and the Rules framed thereunder, there is no provision prohibiting an individual bus operator from seeking a permit, as the permit is sought by the applicant in his individual capacity and not by the family as a collective entity.

5. On the other hand, Mr. Soumitra Kesharwani, learned Panel Lawyer for the State submits that the order rejecting the application seeking permit by the petitioner is in accordance with law. The STA rightly held that the father of the petitioner has substantial tax arrears amounting to Rs.28 Lakhs payable to the RTO, Raipur, thereby, justifying the refusal of the permit. He further submits that though the petitioner's father filed the aforesaid writ petition wherein this Court directed the RTA to consider his claim regarding refund/ adjustment of excess tax paid by him for his vehicle and decide the matter, but the petitioner did not produce any documentary evidence to show that the alleged tax liability has been fully satisfied or adjusted. Hence, the STAT has not committed any illegality by passing the impugned order, affirming the order dated 18.01.2024 passed by the STA.

6. Heard learned counsel for the parties and also perused the documents annexed with the petition with utmost circumspection.

7. The short legal question that arises for determination before this Court is as follows:

Whether an application for grant of Inter-State permanent carriage permit can be denied solely on the ground that tax dues payable by the father of the petitioner have not yet been cleared?

8. The facts already stated in the preceding paragraphs need not be reiterated herein, as the present case involves a pure question of law set-forth above, which formed the basis for the STA concerned to reject the application of the petitioner for grant of Inter-State permanent stage carriage permit on the subject route. The only material fact necessary for disposal of this case is that the petitioner being an independent bus operator, applied for the said permit in his individual capacity. As such, under Article 19(1) (g) of the Constitution of India, he possesses the fundamental right to carry on his business as a bus operator.

9. It is apposite to reproduce Article 19 of the Constitution of India, which reads as under :

19. Protection of certain rights regarding freedom of speech, etc.

(1) All citizens shall have the right-
(a) to freedom of speech and expression;
(b) to assemble peaceably and without arms;
(c) to form associations or unions [or co-operative societies];
(d) to move freely throughout the territory of India;
(e) to reside and settle in any part of the territory of India; [and]
(g) <u>to practise any profession, or to carry on any occupation, trade or business.</u>
(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from

making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of [the sovereignty and integrity of India,] the security of the State, friendly relations with Foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.]

(3) *Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of [the sovereignty and integrity of India or] public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.*

(4) *Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of [the sovereignty and integrity of India or] public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.*

(5) *Nothing in [sub-clauses (d) and (e)] of the said clause shall affect the operation of any existing law in so far as it imposes, or prevents the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.*

(6) *<u>Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, [nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating</u> to,-*

<u>(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or</u>

<u>(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business , industry or service, whether to the exclusion, complete or partial, of citizens or otherwise].</u>

10. A plain reading of Article 19(1)(g) of the Constitution of India would show that all citizens have the fundamental right to practice any profession or to carry on any occupation, trade or business. Further, a joint reading of Article 19(1)(g) and Article 19(6) makes it clear that such a right can only be restricted by duly enacted legislation imposing reasonable restrictions in the interest of general public. In the absence of any express statutory provision framing such restriction, the grounds taken by the STA to refuse the application of the petitioner for grant of inter-State regular stage carriage permit is impermissible.

11. From a perusal of the record, it appears that upon submission of the application, objections were invited, whereupon the existing bus operators raised manifold objections. These pertained to alleged timing clashes and other grounds, including pending tax arrears against the father of the petitioner. The STA rejected all objections raised by the objectors, except the ground concerning alleged tax arrears and thus, passed the order dated 18.1.2024. Further, the STAT, while passing the impugned order, relied on the judgment/order rendered by the High Court of Madhya Pradesh in the matter of Ramsewak Sharma Vs. State and others, thereby affirming the order dated 18.1.2024 passed by the STA, that rejected the subject application for grant of Inter-State permanent stage carriage permit.

12. A perusal of the Act, 1988 shows no provision that disentitles an applicant from obtaining a permit only because tax dues are

outstanding against a family member, provided the applicant has no personal tax arrears and the other grounds of objection raised stand rejected.

13. The legal issue on this point stands settled by the High Court of Judicature at Patna in the matter of **Krishna Kumar Jha (supra)** while considering the ambit and scope of Section 81 of the Act. While dealing with a renewal application, the High Court held that an application seeking renewal of a permit cannot be rejected on the ground of any outstanding amount payable to a third party. In holding so, the High Court of Patna relied upon the decision of the Hon'ble Supreme Court in **Mithilesh Garg and others Vs. Union of India and others** reported in (**1992) 1 SCC 168**, wherein para 9 reads as under :

> ***9.*** *Article 19(1)(g) of the Constitution of India guarantees to all citizens the right to practice any profession, or to carry on any occupation, trade or business subject to reasonable restrictions imposed by the State under Article 19(6) of the Constitution of India. A Constitution Bench of this Court in Saghir Ahmad v. State of U.P. [(1955) 1 SCR 707 : AIR 1954 SC 728] held that the fundamental right under Article 19(1)(g) entitles any member of the public to carry on the business of transporting passengers with the aid of vehicles. Mukherjea, J. speaking for the Court observed as under: (SCR p. 708)*
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> *"Within the limits imposed by State regulations any member of the public can ply motor vehicles on a public road. To that extent he can also carry on the business of transporting passengers with the aid of vehicles. It is to this carrying on of the trade or business that the guarantee in Article 19(1)(g) is attracted and a citizen can legitimately complain if any*

legislation takes away or curtails that right any more than is permissible under clause (6) of that article."

It is thus a guaranteed right of every citizen whether rich or poor to take up and carry on, if he so wishes, the motor transport business. It is only the State which can impose reasonable restrictions within the ambit of Article 19(6) of the Constitution of India. Sections 47(3) and 57 of the old Act were some of the restrictions which were imposed by the State on the enjoyment of the right under Article 19(1)(g) so far as the motor transport business was concerned. The said restrictions have been taken away and the provisions of Sections 47(3) and 57 of the old Act have been repealed from the statute book. The Act provides liberal policy for the grant of permits to those who intend to enter the motor transport business. The provisions of the Act are in conformity with Article 19(1)(g) of the Constitution of India. The petitioners are asking this Court to do what the Parliament has undone. When the State has chosen not to impose any restriction under Article 19(6) of the Constitution of India in respect of motor transport business and has left the citizens to enjoy their right under Article 19(1)(g) there can be no cause for complaint by the petitioners.

14. After considering the issue in light of the aforesaid judgment of the Supreme Court, the High Court of Patna held in para 7 as under :

7.Having regard to the above, this Court has to necessarily set aside the impugned order holding that renewal of license cannot be rejected, if any amounts are payable to some other third party. The authorities cannot act on the letters written by the third party. The authorities are governed by the provisions of the Motor Vehicle Act and the rules framed thereunder and there is nothing in the act or rules which prohibits the authority from renewing the licence on the ground that the petitioner is due some amount to 3rd party. Therefore, the impugned order is set

> *aside, the official respondents are directed to consider the application of the petitioner afresh on its own merits without taking into consideration that the amounts are due to Respondent No. 6. This order does not debar the Respondent No. 6 from taking necessary action for recovery of any amounts due from the petitioner.*

15. In light of the aforesaid pronouncements of the Hon'ble Supreme Court and the Patna High Court, when the case at hand is examined, it emerges that the petitioner's father had earlier approached this Court by filing WPS No. 3676 of 2024 with regard to the claim of refund/adjustment of excess tax paid by him for his vehicle. In the said proceedings, this Court vide order dated 24.7.2024 directed the RTA to consider the case of the petitioner and pass appropriate orders in accordance with law, even though the order passed in the case of the father of the petitioner has not been placed on record.

16. The analogy that tax dues owed by family members can be attributed to the applicant is legally unsustainable and violative of Article 19(1)(g) of the Constitution of India. A default on the part of an individual family member cannot disentitle or debar another family member from obtaining permit from the RTA. Drawing such an adverse inference is tantamount to penalizing one individual for the alleged defaults or offence of another thereby imposing an unreasonable restriction on the applicant's right to pursue a business or occupation. Article 19(1)(g) of the Constitution of India guarantees the fundamental right to carry on any trade or business as an individual entitlement. Unless supported by a

statutory embargo constituting a reasonable restriction under Article 19(6) of the Constitution of India, a default committed by one family member cannot lead to penalization or debarment of another. In the absence of such a statutory restriction, the refusal of a permit cannot be sustained in law, as it is illegal and arbitrary.

17. In a petition under Article 226 of the Constitution of India, judicial intervention is warranted where the decision making process itself is vitiated for not being in accordance with law. When the Motor Vehicles Act contains no statutory prohibition against granting permit to an individual, such a permit cannot be denied on the plea that a family member has pending tax dues with any RTO.

18. For the reasons stated above, the Question framed hereinabove is answered accordingly.

19. This Court is of the firm view that denial of permit on such grounds is arbitrary and unreasonable and the same cannot be sustained as it violates 19(1)(g) and Article 19(6) of the Constitution of India.

20. In light of the foregoing discussion, the impugned orders (Annexure P/1 & P/2) passed by the concerned STAT and STA are set-aside. The STA, Chhattisgarh Raipur is directed to issue an Inter-State permanent stage carriage permit in favour of the petitioner, provided there is no other legal impediment.

21. With the aforesaid observations/directions, the Petition is Allowed.

Sd/-

(Amitendra Kishore Prasad)
Judge

Shyna Ajay