

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8178 of 2022

Shobha Singh

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Transport Department, Govt. of Bihar, Patna.
2. State Transport Commissioner, Transport Department, Govt. of Bihar, at-Bishweshwariya Bhawan, Bailey Road, Patna.
3. Magadh Regional Transport Authority, Gaya through its Chairman at Divisional Commissioner s Compound, Gaya.
4. Joint Commissioner-Cum- Secretary, Mangadh Regional Transport Authority, Gaya, Divisional Commissioner s Compound, Gaya.
5. Kundan Singh S/o Late Kamakhya Narayan Singh, Village- Chiraili, P.S.- Tekari, District- Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Singh, Adv.
For the Respondent/s : Mr. Ajay Kumar Rastogi (Aag 10)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 08-07-2023

The present writ petitioner is filed for the following reliefs:-

“1. That this is an application to pass appropriate writ or writs, order or orders, direction or directions in the nature of Mandamus directing upon the Respondents No.3 & 4 to grant/issue the permanent stage carriage permits for the route Aurangabad to Patna, Gandhi Maidan Via- Aurangabad, Arwal, Pali, Bihta, Jagdev Patha at route no. 969 on bus no. BR-26PA-0101 and bus no. BR-02PB-0101 up and down trip daily which has been considered in the Magadh Regional Transport



Authority (M.R.T.A., Gaya) Gaya in the Agenda No.5 dated 15.09.2021 at Sl. 8 and 9. Which is running under BSRTC.”

It is a case of the learned counsel for the petitioner that the petitioner has applied for renewal of licence and the authorities have rejected the same on the ground that the husband of the petitioner is due an amount of Rs. 4,27,821/- and, therefore, the renewal of the licence to the petitioner cannot be granted. Learned counsel for the petitioner has stated that the said action of the respondents is contrary to the provisions of the Motor Vehicle Act and also the judgment of the Hon'ble Supreme Court in the case of ***Mithilesh Garg and Ors. Vs. Union of India (UOI) and Ors.*** reported in ***1992 1 SCC 168***. Further, the learned counsel has stated that that the official respondents are relying on letter no. 9004 dated 06.09.1991 to reject the renewal of the petitioner. Learned counsel has also stated that the said letter no. 9004 dated 06.09.1991 on which much reliance has been placed by the official respondents was subject matter of a CWJC No. 3096 of 1996 before this Hon'ble Court and this Hon'ble Court vide order dated 23.08.1996 has set aside the said letter.

In the counter-affidavit filed by the respondents, it is specifically stated that the husband of the petitioner was due a sum of Rs. 4,27,821/- and, therefore, as per the letter no. 9004



dated 06.09.1991, the authorities are well within their rights to reject the renewal of the petitioner if any family member of the petitioner is due amounts to the department. Learned counsel for the respondents has prayed for dismissal of the writ petition.

Admittedly, in the present case the petitioner has applied for renewal of the licence to the authorities concerned and the same was rejected vide impugned order dated 15.09.2021 (Annexure-I). A perusal of the impugned order shows that the authorities have rejected the application of the petitioner for renewal of the licence solely on the ground that her husband is due a sum Rs. 4,27,821/- to the department and, therefore, being a family member the application of the petitioner cannot be considered. Reliance has been placed on letter No. 9004 dated 06.09.1991 to contend that if any member of the family is due any amounts to the department, the application of the petitioner for renewal cannot be considered. Admittedly, in this case a perusal of the order dated 23.08.1996 passed in CWJC No. 3096 of 1996, the very same letter No. 9004 dated 06.09.1991 has been challenged and this Hon'ble Court has held as under;

*“However, learned Government Pleader
No. 9 when questioned, he could not satisfy me*



whether in view of the Motor Vehicle Act and the Rules made thereunder such direction could have been issued by the State Transport Commissioner to the effect that the petitioner's application for renewal of the permit shall not be granted or the grant of permit shall be cancelled even if the petitioner is himself not a defaulter but any of his family members is and/or are defaulters in respect of other permits granted in their favour which he has not concerned.

Regard being had to the above position, I am of the opinion that the impugned order cancelling permit for non-payment of tax by other members of the family in respect of other vehicles cannot be sustained in law. Accordingly, this writ petition is allowed and the impugned order as contained in Annexure-8 is quashed."

Learned counsel for the respondents has fairly stated that the above order of the learned Single Judge in CWJC No. 3096 of 1996 has attained finality as no appeal has been filed by the department against the said order.

Having regard to the above facts, this Court has to necessarily set aside the impugned order holding that the petitioner cannot be made liable for the dues, if any of any of the family members of the petitioner for renewal of the permit. 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 any of the family members are due any amounts to the department. This



order does not debar the department from taking necessary action for recovery of any amounts from the family members of the petitioner. It is made clear that the renewal of the permit of the petitioner cannot be rejected on the sole ground that any of the family members are due some amount.

With the above direction, this writ petition is allowed to the extent indicated.

(A. Abhishek Reddy, J)

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