

Mukesh Jain Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Oct-16-2012

Appellant : Mukesh Jain

Respondent : The State of Madhya Pradesh

Advocate for Def. : Shri. Anshuman Singh

Advocate for Pet/Ap. : Shri. Brijesh Dubey

Judgement :

1 W.P.No.12135 o

16. 10.2012 Shri A.M.Trivedi, Senior Advocate assisted by Shri Brijesh Dubey, counsel for the petitioner.

Shri S.S.Bisen, GA for respondent No.1,3 and 4.

Shri Anshuman Singh, standing counsel for respondent No.2.

None for respondent No.5 although represented through duly engaged counsel.

Heard on IA No.11460/12, petitioners application for taking the annexed document on record.

For the reasons stated in such IA, without expressing any opinion on merits of such documents, by allowing the IA, the same are taken on record.

The petitioners/bus operators have filed this petition under Article 226 of the Constitution of India for issuing the appropriate writ in the nature of mandamus directing respondent No.2 to permit them to ply their vehicles from the Pt.

Dwarika Prasad Mishra Bus Stand Jabalpur.

In addition, the prayer for appropriate direction to restrain the respondents to force them to ply their buses from Medical College Jabalpur is made.

With the aforesaid main prayer, the interim prayer directing the respondents to permit them to ply their buses from Pt.

Dwarika Prasad Mishra Bus Stand Jabalpur is also made.

According to the parties, the pleadings are complete in the matter and, in such premises, the case could be heard on merits.

The State counsel submits that for shifting of Pt.

Dwarika Prasad Mishra Bus Stand to Medical College, Jabalpur, the respondent No.4/ Regional Transport Authority has recommended the matter to the State Government for notification in the official gazette under rule 204 of the Madhya Pradesh Motor Vehicle Rules, 1994 to notify the aforesaid bus stand near Medical College Jabalpur.

In continuation he said that according to his information till today such notification has not been published in the official gazette.

On the other hand, petitioners counsel submits that before publication of the notification, the bus operators have been directed and forced to operate their buses for the side of Nagpur, Bhopal, Hoshangabad, Sagar etc. from the 2 aforesaid bus stand which is being established near Medical College Jabalpur.

In addition, learned Senior Counsel Shri Trivedi submits that till today in the aforesaid bus stand near Medical College the proper facilities to operate the buses by the bus operators are not available.

According to his submission, proper shed has not been erected, the safe approach road towards the bus stand has not been made, sanitation facilities have not been provided by making drainage even proper area to station the bus, is not available, in such premises, the bus operators have no option except to station their buses on the main road and, in such premises, the bus operators are not in a position to provide proper treatment to their passengers and the passengers are also not feeling themselves to be at safer side at such bus stand while such facilities are already available at Pt Dwarika Prasad Mishra bus stand.

In response of the aforesaid factual matrix, Shri Anshuman Singh, counsel for respondent No.2 Municipal Corporation said that in compliance of the concerning provision of rule 204 of the aforesaid rules, various facilities have been provided at such newly established bus stand and to provide the other requisite facilities, the work is in progress and the Municipal Corporation is trying to complete the same as early as possible.

In the aforesaid premises, I deem fit to hear this petition on the question of admission as well as on interim relief and, subject to availability of time, for final disposal after calling the specific report regarding existing facility on such bus stand which has been or is being established by the respondents authorities near Medical College, Jabalpur to ply the buses for the side of Nagpur, Bhopal, Hoshangabad, Sagar etc. I deem fit to call such report to knot the actual factual matrix that till today what facilities have been provided by the respondents authorities for the bus operators to run their business of bus operation and whether such facilities are in compliance of rule 204 of the aforesaid Rules.

Such report also appears to be necessary to examine the position whether in view of existing available facilities the bus operators like the petitioners have been rightly forced or directed to ply their buses from the aforesaid newly established bus stand instead of Pt Dwarika Prasad Mishra bus stand.

Therefore, to call such report, I deem fit to send a Commissioner from this Court to submit 3 the report.

Pursuant to it, with the consent of the counsel of the parties, Shri Sameer Seth Advocate present in the Court, is hereby appointed as Commissioner to inspect aforesaid bus stand and submit the report on the following questions :- (a) Whether the proper place is available to the petitioners to station their buses on such bus stand.

(b) Whether the Pt Dwarikar Prasad Mishra bus stand is having proper sanitation along with the information that what facilities in this regard is available at newly established bus stand for the bus operators petitioners as well as for their passengers.(c) Whether for distribution of the ticket by the conductor of the petitioners bus operator, the specific place or window were prepared or any place in this regard has been earmarked or the same is being constructed.

(d) Whether light facility for whole bus stand is available at large.

(e) Whether in the rainy season, the petitioners the bus operators are in a position to use such bus stand properly and their passengers may board the buses conveniently and properly in rainy season.

(f) Whether the facility of hygienic drinking water is available for the petitioners staff and their passengers and if the same is available then at how many places the same has been provided.

(g) Whether any shed to board or step down the passengers from the buses of the petitioners has been made and from that shed, what safe arrangements, to approach the main road for coming and going the passengers of the petitioners has been made.

(h) Besides that if any other material thing is found by the Commissioner then he is directed to write the same in his report.

The Commissioner's fees is quantified Rs.10,000/- out of which Rs.5000/- shall be paid by the Municipal Corporation, Jabalpur while the remaining 5000/- shall be paid by the petitioners. The payment of the Commissioner's fees shall be the condition precedent to issue the Commissioner warrant to the aforesaid Commissioner Shri Sameer Seth Advocate.

4 The aforesaid Commissioner's Fee be deposited in the office of this court within two days.

Subject to depositing such fees, office is directed to issue the Commissioner warrant to the Commissioner Shri Sameer Seth Advocate along with the photocopy of this order.

Shri Sameer Seth is directed to submit its report on or before 30.10.12 and office is directed to place this matter for admission and consideration of the interim relief as well as subject to availability of time for final disposal on 30.10.12.

C.C as per rules.

(U.C.Maheshwari) Judge MKL

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