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2/10/14

**IN THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR**

WRIT PETITION (227) No. 331 /2014

Single Bench

PETITIONER
PETITIONER
(LOWER COURT)

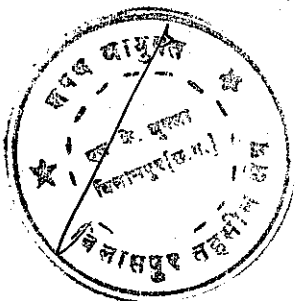
: Kanker Roadways, Near Gandhi
Udyan, Civil Line, Raipur, Through
the Managing Partner Pritam
Singh Garcha, Son of late Shri
Jogender Singh Garcha, aged
about 65 years, R/o. Civil Lines,
Raipur, P.S. Civil Lines, Raipur,
Civil and Revenue District Raipur
(C.G.),

.R.No. W.P.(227) 331/14
Presented by Shri S. K. Borra
dated 26/4/14

VERSUS

RESPONDENTS

1. State Transport ^{Appellate Tribunal} Authority ^{Authority} in
Chhattisgarh, Raipur, Old
Mantralaya, D.K.S. Bhawan,
Gandhi Chowk, Raipur, District
Raipur (C.G.),
2. Regional Transport Authority,
Bastar Division at Jagdalpur,
District Bastar (C.G.),



**WRIT PETITION UNDER ARTICLES 227 OF THE
CONSTITUTION OF INDIA**



XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.(227) 331/14 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<u>SB : Hon'ble Shri Manindra Mohan Shrivastava, J.</u> <u>30-04-2014</u> Shri Uttam Pandey, counsel for the petitioner. Shri Rakesh Jha, Dy. G.A for the State. Heard on admission. This petition under Article 227 of the Constitution of India is preferred against order dated 13/02/2014 passed by State Transport Appellate Tribunal, by which petitioner is aggrieved to the extent the case has been remanded. Learned counsel for the petitioner submits that once the Tribunal came to the conclusion that rejection of petitioner's application on the ground of small time gap was not justified, instead of directing remand of the case, the Tribunal itself ought to have examined and scrutinized petitioner's application on all other counts and eligibility as also fulfillment of other conditions for grant of permit. According to him, this power is available to the Tribunal. He also submits that while remanding the matter, the Tribunal has unnecessarily directed the authority to make various enquires with regard to permits granted on the same route which has got nothing to do with the case of the petitioner. Thus by issuing such direction, the Tribunal has entered into certain aspects which were not subject matter	



उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक 11/2(227) 331/14 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	of consideration of appeal. After going through the order passed by the Tribunal, I find that the Tribunal has recorded a finding in favour of the petitioner that rejection of petitioner's application on the ground of short gap of time was not justified. However for reasons stated in para 7 of the order, the Tribunal thought that before issuance of the permit, many other requirements and criteria are required to be scrutinized which can be better done by the Transport Authority. May be that in appropriate cases, the Tribunal may itself pass an order, however, in the present case, it appears that the Tribunal remanded the case for consideration to the authority at first instance. Therefore, in the considered opinion of this Court, this cannot be said to be a jurisdictional illegality, particularly, when two courses are open to the Tribunal. The Tribunal has directed the authority to keep in consideration certain aspects. However, those observations cannot come in the way of the petitioner in grant of permit because it has been held that the reason for rejection of the petitioner's application was proposed time and nothing else. Once this has been held, it automatically follows that subject to fulfillment of other statutory conditions for grant of permit, the petitioner would be entitled to grant of permit on the route and as per the time table	

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Wp(227) 33.1/14 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	proposed by the petitioner. With the aforesaid observations, this petition is dismissed.	Sd/ Manindra Mohan Shrivastava Judge