

The High Court Of Madhya Pradesh**WP-7548-2021***(MAHENDRA SINGH RATHOR AND OTHERS Vs THE STATE OF MADHYA PRADESH)***Jabalpur, Dated : 30-06-2021****Heard through Video Conferencing.**

Shri Brajesh Kumar Dubey, learned counsel for the petitioners.

Shri Piyush Dharmadhikari, learned Government Advocate for the respondents/State.

Heard on the question of admission.

Learned counsel for the petitioners submits that this matter is squarely covered by the order dated 05.03.2019 passed in W.P. No.4466/2019 (Smt. Sunita Jaiswal Vs. The State of Madhya Pradesh), wherein while deciding the similar issue, this Court has held as under:-

"Learned Authority has exercised the powers conferred under Rule 77(1-a)(iii) of the M.P. Motor Vehicles Rules, 1994 (in short "Rules, 1994"), which is reproduced below :

"Rule 77, Sub-rule (1-a)- In order to ensure safe, secure and convenient transport services to the passengers, the permit granting authority while granting a stage carriage permit shall abide by the following conditions namely :-

(i) that no stage carriage permit shall be granted on interstate route to a vehicle which has completed 10 years from the manufacture year;

(ii) [xxx]

(iii) that no stage carriage permit shall be granted for any route of the vehicle which has completed (15 years) from the year of manufacture;

(iv) that for long distance route of (more than 75 kms) in a single trip, the following category of vehicles with seating capacity shown against each shall be permitted to ply:-

1 Deluxe / Air not less than 35+2 seats*[including]
conditioned Bus driver and conductor.

2 Express Bus not less than 45+2 seats,*[including]
driver and conductor.

3 Ordinary Bus not less than 50+2 seats*[including]
driver and conductor.

(1-b) the restriction imposed by sub-rule (1-a), in so far as they relates to the stage carriage registered before coming into force of the said rules shall not apply."

Mr. Ashish Rawat, learned counsel has pointed out that sub-clause (1-b) has been inserted in the M.P. Motor Vehicles Rules, 1994 w.e.f. 28/12/2015, according to which, the provision of sub-rule (1), as it relates to the stage carriage registered before coming into force of said subrule, shall not apply. Learned Authority, before passing of the order under sub-rule (1-a)(iii) of the Rules, did not examine the provision of sub-rule (1-b) by which, provision of sub-rule (1-a) of the Rules, has been excluded for the vehicle registered before coming into force of the said rule. Sub-rule (1-a) came into statute w.e.f. 24/11/2010 and the vehicle bearing registration No. MP-20-PA-1077 manufactured in the year 2002 and registered on 22/03/2002.

Admittedly, the provision of sub-rule (1-a) of the Rules, would not apply to the petitioner, hence the impugned order is hereby set aside.

Present petition stands allowed accordingly."

Considering the above and the facts and circumstance of the present case, in my opinion, the aforesaid order passed in W.P.No.4466/2019 shall be applicable in the present case also *mutatis mutandis* and the conditions imposed on the petitioners regarding non-plying of their 15 years old vehicles i.e. MP-40-F-0133 and MP-17-P-0164 respectively, are liable to be and are

hereby struck down.

Accordingly, the petition stands **allowed** with the aforesaid observations.

Certified Copy as per rules.

(SANJAY DWIVEDI)
JUDGE

Prachi

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