IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

&

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

WRIT PETITION No. 15560 of 2026

CNR No.: MPHC030109972026

HARISHANKAR SINGH PATEL AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri M.P.S.Raghuvanshi, Senior Advocate with Shri Himanshu Sharma, Advocate for petitioners.

Shri Vivek Khedkar, Additional Advocate General (Senior Advocate) with Shri Sohit Mishra, Govt. Advocate for the State.

Shri Arvind Dudawat, Senior Advocate with Shri Abhishek Singh Kaurav, Advocate for Intervener.

Shri Prashant Sharma and Shri Shailendra Gupta, Advocates for respondent No.7.

Shri Sourav Singh Tomar, Advocate for Intervener.

Shri Biswajit Das, Advocate for Intervener.

Shri Neerendra Sharma and Shri Geetesh Marwah, Advocates for Intervener.

Reserved on : 13/10/2026

Pronounced on : 14/10/2026

ORDER

Per. Justice Gurpal Singh Ahluwalia

This petition, under Article 226 of Constitution of India, has been filed seeking the following reliefs:-

"(i) That, the impugned notification dated 09.02.2026 (Annexure

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Signing time: 14-10-2026 17:36:22

P/1) be directed to be quashed.
7(i)-A That, the notification dated 10.08.2026 (Annexure P/11) may also kindly be quashed and set aside.
(ii) That, it may be directed that the respondents should not change the headquarter of the State Transport Authority constituted under section 68 of the Act outside the Gwalior, where the Transport Commissionary is located and holds its sittings.
(iii) That, it may be directed that the constitution of committee under section 68 should confined strictly in accordance with section 68 and the appointment of Secretary should not be confused and has to be separately made in terms of Rule 63 and 66 of the rules.
(iv) That, other relief which is just and proper in the facts and circumstances of the case may also be granted."

2. Certain developments had taken place during the pendency of this petition, therefore, the previous notifications which were issued under Section 68 of the Motor Vehicles Act *(for short "the Act")* shall be referred only for the purpose of pointing out the chronology of events.

3. According to the petitioners, on 28/3/2025, a notification was issued under Section 68(1) of the Act, thereby constituting the State Transport Authority with Additional Chief Secretary/Principal Secretary/Secretary, Government of Madhya Pradesh, Transport Department as Chairman, and Transport Commissioner as member. Since Shri Manish Singh was appointed as MD of MPRTC as well as Secretary of the Transport Department, therefore, WP No. 36062 of 2025 was filed in the nature of *quo warranto*. Although no interim order was passed during the pendency of the writ petition, the notification dated 28/3/2025 was withdrawn and notification dated 9/2/2026 was issued, thereby re-constituting the State Transport Authority with Additional Chief Secretary/Principal Secretary level Officer nominated by the Government of Madhya Pradesh as Chairman, Transport Commissioner as member, and Deputy Secretary/

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Signing time: 14-10-2026 17:36:22

Under Secretary nominated by the Transport Department, Government of Madhya Pradesh as Secretary of the Authority. It was also provided that the Authority may invite the Secretary in-charge of the Transport Department and the Joint Commissioner (Administration) as special invitees to assist the Authority. This notification was challenged by the petitioners by filing the present petition primarily on the ground that the notification dated 9/2/2026 is contrary to the provisions of Section 68(2) of the Act, and the Secretary can be appointed under Section 63 of the Act and not under Section 68(1) of the Act.

4. On 16/6/2026, an interim order was passed by this Court thereby staying the effect and operation of the notification dated 9/2/2026 in light of the contention raised by the State itself in I.A. No.7811/2026 to the effect that there are certain irregularities in the notification dated 9/2/2026, and the Transport Department has to take steps for amendment in the impugned notification and issuance of separate notification in accordance with the statutory provisions.

5. Now, the State has come up with a new notification dated 10/8/2026, thereby reconstituting the State Transport Authority consisting of Additional Chief Secretary/ Principal Secretary level officer nominated by the Government of Madhya Pradesh as Chairman and Transport Commissioner as member. In view of the latest notification dated 10/8/2026, the writ petition was amended, and the validity of this notification has also been challenged.

6. Challenging the notification dated 10/8/2026, it is submitted by

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Signing time: 14-10-2026 17:36:22

counsel for the petitioner that under Section 68(1) of the Act, there is no provision for nomination of members, and therefore, the State Government should have reconstituted the State Transport Authority by appointing the persons concerned as Chairman and member.

7. Accordingly, counsel for petitioners was directed to elaborate his submission that the notification under Section 68(1) should be *persona designata* and not by designation. However, counsel for petitioners could not elaborate his arguments on that issue.

8. Even, this Court has gone through the provisions of Section 68(1) of the Act, which merely provides that the State Government shall, by notification in the Official Gazette, constitute for the State, a State Transport Authority to exercise and discharge the powers and functions specified in subsection (3). On a plain reading of this provision, it is clear that it cannot be said that every time a notification designating an individual to act as Chairman or member is to be issued. By issuing notification dated 10/8/2026, the State Government has constituted the State Transport Authority consisting of Additional Chief Secretary/Principal Secretary level officers who will be nominated by the Government of Madhya Pradesh. The only effect of this notification is that if a Chairman demits his office for any reason, then every time the State Government will not be required to issue a notification under Section 68(1) of the Act and a nomination of another officer of Additional Chief Secretary/Principal Secretary level will meet the requirements of law.

9. At this stage, it is submitted by counsel for petitioners that such an

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Signing time: 14-10-2026 17:36:22

interpretation would give uncontrolled and unchanneled power to the State to nominate any official.

10. Considered the aforesaid submission made by counsel for the petitioners.

11. It is not a case where the State Government has sub-delegated its power of appointment. Appointment of any individual as Chairman and nomination of any individual as Chairman by the State Government are one and the same thing. So far as uncontrolled and unchanneled power is concerned, the only limitation is provided under Section 68(2) of the Act, which is to the effect that the Chairman should have had judicial experience or experience as an appellate or a revisional Authority or as an adjudicating Authority competent to pass any order or take any decision under any law. Officers of the level of Additional Chief Secretary/Principal Secretary are always IAS officers who had discharged quasi-judicial powers while holding posts of SDM, Collector, Additional Commissioner, and Commissioner. Even otherwise, it is not argued by the petitioners that an officer of Additional Chief Secretary/Principal Secretary level does not have judicial experience or experience as an appellate, revisional, or adjudicating authority competent to pass any order or to take any decision under any law.

12. It is not out of place to mention here that earlier by notification dated 28/3/2025, the Additional Chief Secretary/Principal Secretary/Secretary, Government of Madhya Pradesh, **Transport Department** was made Chairman. Thus, it is clear that the post of Chairman as per the notification dated 28/3/2025 was reserved for the Additional Chief

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Signing time: 14-10-2026 17:36:22

Secretary/Principal Secretary/Secretary level officer of the Transport Department only and now, by the impugned notification dated 10/8/2026, all the Officers holding the post of Additional Chief Secretary/Principal Secretary level can be nominated by the Government of Madhya Pradesh. There is no requirement that Additional Chief Secretary/Principal Secretary level officer should be from the Transport Department only. The source of power of the State Government to constitute a State Transport Authority is not under challenge. Therefore, the notification dated 10/8/2026 which has been issued under Section 68(1) of the Act cannot be said to be *ultra vires* to Section 68(1) of the Act.

13. It is next contended by Shri Biswajit Das, counsel for the Intervener, that the notification dated 10/8/2026 has been issued in exercise of powers conferred by subsections (1) and (2) of Section 68 of the Act, to exercise and discharge the powers and functions specified in subsection (3) of the said section throughout the State. It is submitted by Shri Biswajit Das that so far as Section 68(2) is concerned, it deals with qualifications and disqualifications of a person to hold the post of Chairman, therefore, the issuance of this notification under Section 68(1) and **(2)** of the Act makes it vulnerable. It is submitted that the power to exercise and discharge the powers and functions specified in sub-section (3) of section 68 of the Act throughout the State is uncontrolled and unchanneled power to the State Transport Authority.

14. Considered the submissions made by Shri Biswajit Das.

15. It is a cardinal principle of law that if two interpretations are

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Signing time: 14-10-2026 17:36:22

possible, then any interpretation leading to absurdity or unconstitutionality of the provision must be avoided

16. The Supreme Court in the case of ***Institute of Chartered Accountants of India v. Vimal Kumar Surana*** reported in **(2011) 1 SCC 534** has held as under:-

> "24. Such an unintended consequence can be and deserves to be avoided in interpreting Sections 24-A, 25 and 26 keeping in view the settled law that if there are two possible constructions of a statute, then the one which leads to anomaly or absurdity and makes the statute vulnerable to the attack of unconstitutionality should be avoided in preference to the other which makes it rational and immune from the charge of unconstitutionality. That apart, the court cannot interpret the provisions of the Act in a manner which will deprive the victim of the offences defined in Sections 416, 463, 464, 468 and 471 of his right to prosecute the wrongdoer by filing the first information report or complaint under the relevant provisions of CrPC."

17. The Supreme Court in the case of ***New India Assurance Co. Ltd. v. Nusli Neville Wadia*** **reported in (2008) 3 SCC 279** *has held as under:-*

> **49.** Section 5 of the Act, on a plain reading, would place the entire onus upon a noticee. It, in no uncertain terms, states that once a notice under Section 4 is issued by the Estate Officer on formation of his opinion as envisaged therein it is for the noticee not only to show cause in respect thereof but also adduce evidence and make oral submissions in support of his case. Literal meaning in a situation of this nature would lead to a conclusion that the landlord is not required to adduce any evidence at all nor is it required even to make any oral submissions. Such a literal construction would lead to an anomalous situation because the landlord may not be heard at all. It may not even be permitted to adduce any evidence in rebuttal to the one adduced by the noticee nor it would be permitted to advance any argument. Is this contemplated in law? The answer must be rendered in the negative. When a landlord files an application, it in a given situation must be able to lead evidence either at the first instance or after the evidence is led by the noticee to establish its case and/or in rebuttal to the evidence

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Signing time: 14-10-2026 17:36:22

led by the noticee.

50. The literal interpretation of the statute, if resorted to, would also lead to the situation that it would not be necessary for the landlords in any situation to plead in regard to its need for the public premises. It could just terminate the tenancy without specifying any cause for eviction.

51. Except in the first category of cases, as has been noticed by us hereinbefore, Sections 4 and 5 of the Act, in our opinion, may have to be construed differently in view of the decisions rendered by this Court. If the landlord being State within the meaning of Article 12 of the Constitution of India is required to prove fairness and reasonableness on its part in initiating a proceeding, it is for it to show how its prayer meets the constitutional requirements of Article 14 of the Constitution of India. For proper interpretation not only the basic principles of natural justice have to be borne in mind, but also principles of constitutionalism involved therein. With a view to read the provisions of the Act in a proper and effective manner, we are of the opinion that literal interpretation, if given, may give rise to an anomaly or absurdity which must be avoided. So as to enable a superior court to interpret a statute in a reasonable manner, the court must place itself in the chair of a reasonable legislator/author. So done, the rules of purposive construction have to be resorted to which would require the construction of the Act in such a manner so as to see that the object of the Act is fulfilled, which in turn would lead the beneficiary under the statutory scheme to fulfil its constitutional obligations as held by the Court inter alia in *Ashoka Marketing Ltd.* [(1990) 4 SCC 406]

52. Barak in his exhaustive work on "Purposive Construction" explains various meanings attributed to the term "purpose". It would be in the fitness of discussion to refer to Purposive Construction in Barak's words:

> "Hart and Sachs also appear to treat 'purpose' as a subjective concept. I say 'appear' because, although Hart and Sachs claim that the interpreter should imagine himself or herself in the legislator's shoes, they introduce two elements of objectivity: First, the interpreter should assume that the legislature is composed of reasonable people seeking to achieve reasonable goals in a reasonable manner; and second, the interpreter should accept the non-rebuttable presumption that members of the legislative body sought to fulfil their constitutional duties in good faith. This formulation allows the interpreter to inquire not into the subjective intent of the author, but rather the intent the author would have had, had he or she acted reasonably."

(Aharon Barak, *Purposive Interpretation in Law*, (2007) at p. 87.)

53. In *Bharat Petroleum Corpn. Ltd.* v. *Maddula Ratnavalli* [(2007) 6 SCC 81] this Court held: (SCC p. 90, para 22)

> "*22.* Parliament moreover is presumed to have enacted a reasonable statute [see Breyer, Stephen (2005): *Active Liberty*: *Interpreting Our Democratic Constitution*, Knopf

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Signing time: 14-10-2026 17:36:22

(*Chapter on Statutory Interpretation*, p. 99 for 'Reasonable Legislator Presumption')]."

54. The provisions of the Act and the Rules in this case, are, thus required to be construed in the light of the action of the State as envisaged under Article 14 of the Constitution of India. With a view to give effect thereto, the doctrine of purposive construction may have to be taken recourse to. (See *Oriental Insurance Co. Ltd.* v. *Brij Mohan* [(2007) 7 SCC 56 : (2007) 3 SCC (Cri) 304 : (2007) 7 Scale 753] .)

18. The Supreme Court in the case of ***Narcotics Control Bureau v. Kashif*** reported in **(2024) 11 SCC 372** has held as under:-

"49. As observed by this Court in *K.P. Varghese* v. *CIT* [*K.P. Varghese* v. *CIT*, (1981) 4 SCC 173 : (1981) 131 ITR 597] , a statutory provision must be so construed, if it is possible, that absurdity and mischief may be avoided. Where the plain and literal interpretation of statutory provision produces a manifestly absurd and unjust result, the court may modify the language used by the legislature or even do some violence to it, so as to achieve the obvious intention of the legislature and produce a rational construction and just result"

19. In case if an individual is appointed as Chairman by issuing a notification under Section 68(1) of the Act, then the State Government will also be under an obligation to consider the qualifications and disqualifications, as provided under Section 68(2) of the Act. However, in case of constitution of State Transport Authority consisting of officers holding the post of Additional Chief Secretary/Principal Secretary level, by itself, will not invite the qualifications/disqualifications. This question would arise only when a person is nominated. However, merely by mentioning subsection (2) of Section 68 in the notification will not make it vulnerable, because it is well established principle of law that while considering the validity of a notification, this Court should presume the constitutionality of the notification and should not try to find out loopholes, so as to declare it as

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Signing time: 14-10-2026 17:36:22

unconstitutional. Even otherwise, if two views are possible, then the view which makes the notification *intra vires* or constitutional should be adopted. Even the counsel for Intervener could not point out how the mention of subsection (2) of Section 68 makes the notification vulnerable.

20. So far as another contention of Shri Das that uncontrolled and unchannelled powers have been conferred on the State Transport Authority to exercise and discharge powers and functions under sub-section (3) of Section 68 throughout the State is concerned, the same is misconceived. Section 68(1) of the Act itself provides for the constitution of the State Transport Authority to exercise and discharge the powers and functions specified in subsection (3). None of the parties has challenged the constitutional validity of Section 68(1) of the Act. Therefore, the conferral of power on the State Transport Authority to exercise and discharge the powers and functions specified in sub-section (3) of section 68 of the Act, is in accordance with law.

21. No other argument is advanced by counsel for the parties.

22. For the reasons mentioned above, this Court is of the considered opinion that the notification dated 10/8/2026 issued by the State Government under Section 68(1) and (2) of the Act is *intra vires* and is in accordance with law. Accordingly, its validity is upheld.

23. This Court, by order dated 16/06/2026, had stayed the effect and operation of the notification dated 9/2/2026. Said notification has been superseded by the notification dated 10/08/2026. The effect and operation of notification dated 10/8/2026 was also stayed by order dated 20/8/2026.

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Signing time: 14-10-2026 17:36:22

Accordingly, the interim orders dated 20/8/2026 and 16/06/2026 (which has already lost its effect upon supersession of the notification dated 9/2/2026) are hereby recalled.

Petition fails and is, hereby, dismissed.

The State Government is at liberty to proceed further in accordance with law.

(G. S. AHLUWALIA)
JUDGE

(ANURADHA SHUKLA)
JUDGE

(and)

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Signing time: 14-10-2026 17:36:22