

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**  
**(ORIGINAL JURISDICTION)**  
**W.P. No. \_\_\_\_\_ / 2018 (PIL)**

**BETWEEN**

National Federation of the Blind

Having its Registered Office at:

#S-372, Bharat Nagar,

2<sup>nd</sup> Phase, near Karnataka Bank,

Magadi Main Road,

Bangalore – 560 091

Represented through its

General Secretary Mr. Gautam Prakash Agarwal

**...PETITIONER**

**AND**

1. The Bangalore Metropolitan Transport Corporation

Central Office, Shanti Nagar

Bangalore – 560 027

Represented by its Managing Director

2. The Karnataka State Road Transport Corporation

Transport House, K.H. Road

Shanti Nagar

Bangalore – 560 027

Represented by its Managing Director

3. State of Karnataka

Through the Department of Transport

M.S. Building

Bangalore – 560 001

Represented by its Principal Secretary

4. State of Karnataka

Through the Department of Women & Child Development

M.S. Building

Bangalore – 560 001

Represented by its Principal Secretary

...RESPONDENTS

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**MEMORANDUM OF PETITION UNDER ARTICLES 226 AND 227 OF THE  
CONSTITUTION OF INDIA 1950**

The Petitioner submits as follows:

1. The present Public Interest Litigation has been brought by the Petitioner in the interests of persons with blindness, under the Rights of Persons with Disabilities Act, 2016 (“**RPD Act**”). The Petitioner is challenging the Circular No. 469/2018 dated 06.06.2018 (“**Impugned Circular**”) issued by the Respondent No. 1 by which the facility of free passes for Vajra (Volvo) buses to persons with total blindness was withdrawn, contrary to the existing policy by which free bus passes for various general, suburban and city buses had been made available to persons with total blindness in Karnataka. Being aggrieved by the actions of the Respondent No. 1 in withdrawing the facility of free bus passes for the Vajra (Volvo) buses for persons with blindness, and further being aggrieved by the fact that the said benefit is available only to persons with total blindness and not to persons with benchmark disabilities i.e. with at least 40% blindness, the Petitioner has filed the present Petition.

**Array of Parties**

2. The Petitioner, National Federation of the Blind, is a self-help organization founded in 1970 with the philosophy of “Let the Blind Lead the Blind”. The Petitioner Federation strives for equality of opportunity for the blind in the fields of education, training and employment and strives to facilitate effective and meaningful inclusion, empowerment, holistic development and protection of rights of persons with blindness and visual impairment and conducts various welfare programmes in the State. The Petitioner is represented by its General Secretary.
  
3. The Respondent No. 1 is the Bangalore Metropolitan Transport Corporation which has issued the Impugned Circular No. 469/2018 dated 06.06.2018 and is in charge of providing passenger transportation in Bangalore, suburban and rural areas.
  
4. The Respondent No. 2 is the Karnataka State Road Transport Corporation, which is in charge of providing intra-city and inter-city passenger transport services.
  
5. The Respondent No. 3 is the Department of Transport and deals with matters relating to public transport in the State of Karnataka.
  
6. The Respondent No. 4 is the Department of Women & Child Development which deals with all matters pertaining to enforcement of rights of persons with disabilities.

## **Brief Facts**

7. It is submitted that since the year 2007, the Respondent No. 1 BMTC used to provide free bus passes to the blind and visually impaired. The Respondent No. 1 had provided the facility of free bus passes for the blind and visually impaired and this facility was being given for all buses, including the regular buses and the Vajra (Volvo) buses. This was done by way of a Corrigendum dated 18.05.2009 which was issued and which provided that persons with locomotor disability (including those using a wheelchair) and persons having total blindness and holding a free blind pass / disability concession pass, would be able to use this free bus pass for travelling in Vajra (Volvo) buses.

(A copy of the Corrigendum dated 18.05.2009 issued by the Respondent No. 1 is annexed hereto and marked as **ANNEXURE – A**)

8. In this background, in 2016, the Respondent No. 2 KSRTC issued a General Standing Order No. 777/2016 dated 30.11.2016, based on certain demands made by the Petitioner with respect to issuance of bus passes for persons with visual impairment and blindness. In this Standing Order, the 2<sup>nd</sup> respondent provided the following:

- a. Only residents / beneficiaries of Karnataka are entitled to obtain free bus passes for the blind.
- b. The free bus passes will be issued only to totally blind persons and persons with low vision are not eligible for free bus pass.
- c. It extended the duration of the free bus passes from 3 years to 5 years.

d. These free bus passes were given for all bus travel including the general, suburban, city buses and Vegadootha buses.

(A Copy of the General Standing Order No. 777/2016 dated 30.11.2016 is annexed hereto and marked as **ANNEXURE – B**)

9. However, after these free bus passes were issued and were being utilized by blind persons for several years, suddenly the Respondent No.1 vide its Circular dated 6.6.2018 revoked this facility of free bus passes for persons with blindness for the Vajra buses. In the Impugned Circular, the Respondent No. 1 revoked previous standing orders, general circulars and letters issued by it on travel facilities extended to free bus pass holders and the steps to be followed. The Impugned Circular, in addition to extending the facility of free bus passes to a range of additional beneficiaries including but not limited to Legislative Assembly and Council Members, freedom fighters, their wives and widows, Olympians, Para Olympians and children who have won bravery awards, also dealt with the issue of free bus passes to persons with blindness. It held that persons with blindness having free bus passes could only travel in all general services free of cost and could not use the free bus pass to travel in the Vajra bus services in the city.

(A copy of the Impugned Circular No. 469/2018 dated 06.06.2018 is annexed hereto and marked as **ANNEXURE – C**)

10. Aggrieved by this sudden change and withdrawal of free bus travel facility in the Vajra bus services in the city for persons with blindness,

the Respondent No. 1, the Petitioner addressed a letter dated 16.06.2018 to the Respondent No. 1. In the said letter, the Petitioner brought to the Respondent No. 1's attention that persons with blindness have been using the facility of free bus passes for their transportation needs and the withdrawal of the said facility in respect of Volvo buses without any specific reason was arbitrary. The letter notes that while the Impugned Circular has extended the facility to many weaker sections of society, persons with blindness are the only category of persons in respect of whom an existing facility has been withdrawn. In view of this, the Petitioner requested the Respondent No. 1 to reconsider its decision withdrawing the said facility for persons with blindness and restore the said facility for free travel in Vajra buses.

(A copy of the letter dated 16.06.2018 is annexed hereto and marked as **ANNEXURE – D**)

11. Despite the said letter dated 16.06.2018, the Respondent No. 1 has not withdrawn the Impugned Circular and not withdrawn the cancellation of free bus travel for the blind in Vajra bus services.

12. The Petitioner also addressed letters dated 18.06.2018 to Respondent Nos. 2, 3 and 4, bringing to their notice, the decision of the Respondent No. 1 in withdrawing the existing free travel facility for persons with blindness and requested for their intervention in this matter and restore the ongoing facility of free bus passes for persons with blindness in Volvo buses operated by the Respondent No. 1.

(Copies of the letters dated 18.06.2018 addressed by the Petitioner to Respondent Nos. 2, 3 and 4 are annexed hereto and marked as **ANNEXURE – E collectively**)

13. Similar letters dated 18.06.2018 were addressed by the Petitioner to the (i) Hon'ble Minister, Department of Transport, (ii) Hon'ble Minister, Department of Women & Child Development, (iii) Hon'ble Chief Secretary, Government of Karnataka and (iv) Hon'ble Chief Minister, State of Karnataka but there has been no response nor any positive action taken to cancel the withdrawal of free travel in Vajra buses.

(Copies of the letters dated 18.06.2018 addressed by the Petitioner are annexed hereto and marked as **ANNEXURE – F collectively**)

14. Aggrieved by this, and having no other alternative and equally efficacious remedy, the Petitioner has filed the present Public Interest Litigation before this Hon'ble Court. The Petitioner has not filed any other petition either before this Hon'ble Court or any other court in respect of this cause of action. The Petition is filed on the following, among other grounds:

### **Grounds**

15. **THAT** the Impugned Circular by cancelling free concessional travel for blind persons in Vajra buses violates Section 41 of the RPD Act which provides that the appropriate Government shall develop schemes and programmes to "*promote the personal mobility of persons with*

*disabilities at affordable cost*". The said concessional programme of issuing free bus passes to persons with total blindness in all buses in Karnataka furthers the object and purpose of the RPD Act. However, by withdrawing the existing facility of free bus passes in one kind of passenger transport service i.e. the Vajra (Volvo) buses for persons with total blindness, the Respondent No. 1 has acted against the text of Section 41 and the spirit of the RPD Act as it would make travel inaccessible for persons with blindness and such cancellation deserves to be set aside.

16. **THAT** the Respondent No. 1, by cancelling free bus passes for the blind in Vajra (Volvo) buses, have failed to consider that such Vajra (Volvo) buses are connecting buses for various destinations in Bangalore. For instance, only Volvo buses ply certain routes in Bengaluru, such as towards Whitefield, and the withdrawal of the facility in respect of persons with blindness would significantly disadvantage those of whom have to travel such long distances that are otherwise unconnected by other general, suburban and city buses. Further, withdrawal of this facility places an undue burden on persons with blindness to pay for travel in such Vajra (Volvo) buses even where they do not have the capacity to pay for the same. Therefore, the decision of the Respondent No. 1 in withdrawing the facility of free bus passes is completely contrary to the purpose of Section 41 of the RPD Act, which has been incorporated with a view to enhance and not adversely affect mobility of persons with disabilities.



17. **THAT** the Respondent Nos. 1 and 2 as transport authorities have the positive duty under Section 41 of the RPD Act to ensure that transport within the city and within the state is accessible for persons with disabilities and one method of making it accessible for persons with blindness and low vision is to provide them free bus passes for all general and suburban transport. The Respondent No. 1, completely contrary to this policy which it has acknowledged in the Impugned Circular issued by it, has withdrawn the concession extended to persons with total blindness despite its own Corrigendum dated 18.05.2009 which clearly extended the facility of free bus passes to persons with total blindness. Hence the Impugned Circular deserves to be set aside.

18. **THAT** in any event, the facility of free bus passes for all buses in Karnataka should be extended by the Respondent Nos. 1 and 2 to not just persons with total blindness but to all persons with benchmark disability with respect to visual impairment, i.e. to all persons with at least 40% visual impairment. This measure would be in keeping with the aim of Section 41 of the RPD Act on increasing access to transport for persons with disabilities, particularly in view of the fact that the RPD Act itself recognises “persons with benchmark disabilities” as a separate category deserving of protection. Section 41 of the RPD Act is not limited to persons with complete loss of vision but uses the phrase “*all persons with disabilities*” and as such, there should be no limitation on the

issuance of free bus passes for all buses in Karnataka only to persons with complete loss of vision.

19. **THAT** the facility of free bus passes for Volvo buses extended to persons with blindness has been withdrawn without providing any reason or rationale and the same is arbitrary and in violation of Article 14 of the Constitution. The withdrawal of the benefit in the Impugned Circular is without providing any reasons and is thus arbitrary and thus deserves to be set aside.

20. **THAT** the Respondent No. 1 cannot claim that the withdrawal of the facility was on account of adverse financial implications of providing free bus passes to persons with total blindness for the Respondent No. 1. As set out in the letter dated 16.06.2018 addressed by the Petitioner to the Respondent No. 1, the number of persons who utilize the facility of free bus pass for Volvo buses in one day is only around 100 and in a year, the cost of such free bus passes is negligible. Further, while withdrawing the facility for persons with total blindness, the Respondent No. 1 has simultaneously extended the facility of free bus passes to other classes of persons, as set out in the Impugned Circular. As such, the Respondent No. 1 cannot justify its decision to withdraw the facility of free bus passes in Vajra (Volvo) buses for persons with total blindness on the ground of adverse financial implications for the Respondent No. 1.

21. **THAT** the Respondent No. 1 had created a legitimate expectation of the benefit of free bus passes for persons with blindness in all city buses including Vajra (Volvo) buses, as long back as 2009, by way of the Corrigendum dated 18.05.2009 issued by the Respondent No. 1. However, the Respondent No. 1 has suddenly withdrawn this benefit of granting free bus passes to persons with total blindness that has existed for almost 10 years, without any explanation or overriding reason justifying such a withdrawal and without giving persons with blindness an opportunity of being heard, or some overriding public policy, as required under Article 14 of the Constitution. In ***Navjyoti Co-operative Housing Society v. Union of India & Ors.***, (1992) 4 SCC 477, the Hon'ble Supreme Court, while expounding on the doctrine of 'legitimate expectation', has held that:

***"15. The existence of 'legitimate expectation' may have a number of different consequences and one of such consequences is that the authority ought not to act to defeat the 'legitimate expectation' without some overriding reason of public policy to justify its doing so. In a case of 'legitimate expectation' if the authority proposes to defeat a person's 'legitimate expectation' it should afford him an opportunity to make representations in the matter. In this connection reference may be made to the discussions on 'legitimate expectation' at page 151 of Volume 1(1) of Halsbury's Laws of England, 4<sup>th</sup> edn. (re-issue). We may also refer to a decision of the House of Lords in Council of Civil Service Unions v. Minister for the Civil Service. It has been held in the said decision that an aggrieved person was entitled to judicial review if he could show that a decision of the public authority affected him of some benefit or advantage which in the past he has been permitted to enjoy and which he legitimately expected to be permitted to continue to enjoy***

***either until he was given reasons for withdrawal and the opportunity to comment on such reasons.***

***16. It may be indicated here that the doctrine of 'legitimate expectation' imposes in essence a duty on public authority to act fairly by taking into consideration all relevant factors relating to such 'legitimate expectation'. Within the conspectus of fair dealing in case of 'legitimate expectation', the reasonable opportunities to make representation by the parties likely to be affected by any change of consistent past policy, come in."***

22. **THAT** the RPD Act was enacted with a view to facilitate the full and effective participation of persons with disabilities in society and accordingly mandates the Government to take necessary steps to ensure reasonable accommodation for persons with disabilities, which has been expressly recognised by Section 3 of the RPD Act. However, the action of the Respondent No. 1 in withdrawing the facility of free bus passes for Vajra (Volvo) buses in respect of persons with total blindness only detracts from the stated aim, object and purpose of the RPD Act and the policy hitherto pursued by the Respondent Nos. 1 and 2.

23. **THAT** the Hon'ble Supreme Court, in ***Justice Sunanda Bhandare Foundation vs. Union of India***, (2014) 14 SCC 383 observed:

***"9. Be that as it may, the beneficial provisions of the 1995 Act cannot be allowed to remain only on paper for years and thereby defeating the very purpose of such law and legislative policy. The Union, States, Union Territories and all those upon whom obligation has been cast under the 1995 Act have to effectively implement it. As a matter of fact, the role of the governments in the matter such as this has to be proactive. In the matters of providing relief to those who are differently***

***abled, the approach and attitude of the executive must be liberal and relief-oriented and not obstructive or lethargic. A little concern for this class who are differently abled can do wonders in their life and help them stand on their own and not remain on mercy of others. A welfare State, that India is, must accord its best and special attention to a section of our society which comprises of differently abled citizens. This is true equality and effective conferment of equal opportunity.”***

### **PRAYER**

WHEREFORE, in light of the above facts and circumstances, the Petitioner most respectfully prays that this Hon'ble Court be pleased to:

- A. Issue a writ in the nature of mandamus directing the Respondent No. 1 to quash the Impugned Circular No. 469/2018 dated 06.06.2018 annexed as **ANNEXURE – C** to the extent that it cancels the facility of free bus travel to persons with blindness in the Vajra (Volvo) buses;
- B. Issue a writ in the nature of mandamus directing the Respondent Nos. 1 and 2 to extend the facility of free bus passes for free bus travel to all persons with at least 40% visual disability as per the definition of persons with benchmark disabilities as defined under Section 2(r) of the Rights of Persons with Disabilities Act, 2016 and not just for persons with total blindness; and
- C. Grant any other relief, which the Hon'ble Court deems fit in the circumstances of the case in the interests of justice and equity.

Place: Bangalore

Counsel for the Petitioner

Date:

JAYNA KOTHARI

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