

(2015) 04 P&H CK 0403
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7555 of 2014

Baljit Motors (Regd.)

APPELLANT

Vs

State Transport Appellate Tribunal and Others

RESPONDENT

Date of Decision : 24-04-2015

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1988 — Section 81

Citation : (2015) 179 PLR 486

Hon'ble Judges : Daya Chaudhary, J

Bench : Single Bench

Advocate : B.S. Giri, for the Appellant; P.P.S. Thethi, A.A.G, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Daya Chaudhary, J—The present petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order dated 23.08.2013 (Annexure P-3) passed by respondent No. 1 whereby the appeal filed by the petitioner has been dismissed as well as order dated 11.06.2013 (Annexure P-1) passed by respondent No. 2 whereby the claim of the petitioner has been rejected. Learned counsel for the petitioner submits that the petitioner was holding regular stage carriage mini bus permit No. 948/MBR/03 which was valid up to 15.01.2013. A regular permit is valid for a period of five years and the holder of the permit is required to submit an application for renewal of the permit before 15 days prior to the date of expiry under Section 81 of the Motor Vehicles Act, 1988. The petitioner moved an application for renewal of the permit on 05.03.2013 after a delay of 02 months and 05 days. He further submits that as per Rule 68A of the Punjab Motor Vehicles Act, the delay can be condoned with a penalty which can be maximum of Rs. 500/-. The application of the petitioner has been rejected without following the said rule. Learned counsel also submits that the appeal filed by the petitioner has also been dismissed which is totally misinterpretation of the order dated 26.04.2013. Learned counsel

also submits that as per the directions issued by Hon"ble the Apex Court on 26.04.2013 as well as on 20.01.2014, the case of the petitioner can be considered for renewal of the permit.

2. Learned State counsel submits that both the aforesaid orders are contrary to the submission made by learned counsel for the petitioner as it has specifically been mentioned in the order dated 26.04.2013 that the applications for renewal and extension of the permits of those persons will be considered who are covered under the Scheme 2013 and the petitioner was not holding any permit at that particular point of time. Learned State counsel also submits that a clarification is there in the order dated 20.01.2014 in continuation of the earlier order. It has specifically been mentioned in the order that the concerned authority has to consider the application for renewal or extension of permit under the provisions of Motor Vehicles Act, 1988 and the scheme framed thereunder, but there is no reference of rule and moreover the rules cannot be contrary to the provisions of the Act. Learned State counsel also submits that the petitioner was holding a mini bus permit and that scheme has already been scrapped by this Court.

3. Heard arguments advanced by learned counsel for the petitioner as well as learned State counsel and have also perused the impugned order as well as the order passed by the appellate authority.

4. Admittedly, there was a delay of more than 02 months in submitting the application for renewal of the permit. A perusal of Rule 68A would show that the application for renewal of the permit can be filed with late fee. The maximum period has also been mentioned which is more than one year with penalty of Rs. 2,000/- per year and Rs. 10/- for every additional day. The claim of the petitioner has not been considered in view of Rule 68A of the Punjab Motor Vehicles Rules, 1989 (for short "the Rules"). Even as per order passed on 20.01.2014 by Hon"ble the Apex Court, the competent authority has been directed to consider the applications for renewal/extension of the permit under the provisions of the Motor Vehicles Act, 1988. There is no bar in considering the application under the provisions of the Motor Vehicle Act, 1988. If there is any delay then also the petitioner should have been given an opportunity of hearing and his case should be considered in view of Rule 68A of the "Rules". Accordingly, the present petition is disposed of with a direction to respondent No. 2 to consider the case of the petitioner in view of Rule 68A of the Rules and pass necessary order in accordance with law within a period of one month from the date, of receipt of certified copy of this order.