

(2021) 07 UK CK 0241

In the Uttarakhand High Court

Case No : Special Appeal No. 207 Of 2021

Dehradun Vikas Nagar Dakpathar Motor Owners Welfare
Association & Another

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 30-07-2021

Acts Referred:

Citation : (2021) 07 UK CK 0241

Hon'ble Judges : Raghvendra Singh Chauhan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Amar Murti Shukla, S.S. Chauhan

Final Decision : Disposed Of

Judgement

Raghvendra Singh Chauhan, CJ

1) Since the learned counsel for the parties agree, this case is being decided at this stage itself.

2) The petitioners, Dehradun Vikas Nagar Dakpathar Motor Owners Welfare Association, and Mr. Ram Kumar Saini, have challenged the legality of

the order dated 22.04.2021, passed by learned Single Judge in Writ Petition No. 936 (M/S) of 2021, whereby the learned Single Judge has dismissed the

writ petition.

3) Briefly, the facts of the case are that the petitioners-appellants are permanent stage carriage holder of the route known as Dehradun-Vikas Nagar-

Kalsi. They are plying their vehicles covered by permanent stage carriage permit, and charging the fare fixed by the respondent authorities. According

to the petitioners, the respondent authorities in their meeting held in January 2020, permitted the petitioner Association to charge the fare from the

individual passenger at the rate of Rs. 1.05 per kilometer, whereas the State Road Transport Undertaking has been authorized to charge Rs.1.30 per

kilometer. The case of the petitioners is that the respondent authorities while fixing the rate of fare of the petitioner Association and for the State Road

Transport Undertaking adopted a discriminatory view for the reason that for the same distance petitioner Association was permitted to charge Rs.

1.05 per kilometer, whereas the State Transport Undertaking has been given liberty to charge Rs. 1.30 per kilometer. Besides this, liberty has also

been granted to the State Transport Undertaking to enhance 20 per cent of the fare from Rs. 1.30. Consequently, the State Transport Undertaking

enhanced its fare from Rs. 1.30 to Rs. 1.50 per kilometer, but the petitioner Association is being compelled to charge merely Rs. 1.05 per kilometer.

This, according to the petitioners, is nothing but a sort of discrimination with the private operators. According to the petitioners, they moved a

representation dated 24.12.2020 before the respondent authorities for redressal of their grievances, but no decision has been taken on the said

representation as yet.

4) Mr. Amar Murti Shukla, the learned counsel for the appellants, submits that one of the prayers made by the appellants-petitioners was to seek a

direction from the learned Single Judge to direct the respondents to consider the representation dated 24.12.2020, which has been filed by the

appellants-petitioners. For, according to the petitioners, the State has permitted the petitioners to charge the fare from the passenger at the rate of Rs.

1.05 per kilometer, while the State Road Transport Undertaking has been permitted to charge the same at the rate of Rs. 1.30 per kilometer. Thus,

there is a hostile discrimination being carried out by the State against the petitioners. However, the learned counsel for the appellants submits that the

learned Single Judge is not justified in observing that the representation is not a statutory one, and, therefore, no direction can be issued to the

respondents to decide the said representation.

5) Mr. S.S. Chauhan, learned Deputy Advocate General for the State, has supported the impugned order.

6) Heard the learned counsel for the parties and perused the impugned order.

7) Even if, filing of a representation may not be a statutory remedy, nevertheless, the filing of a representation is a means open to a person to voice

his

grievance before the competent authority. Since, prima facie, there is difference in the fares which are chargeable by the petitioners and the State

Transport Corporation, it was but natural for the petitioners to feel that they are being discriminated in a hostile manner. Therefore, the petitioners

were justified in filing representation before the respondent No. 1.

8) Once a representation is filed before a Competent Authority, the Competent Authority is legally bound to decide the representation after giving an

opportunity of personal hearing to the person, who has filed the representation. Therefore, this Court is of the opinion that the observations made by

the learned Single Judge are unsustainable.

9) Thus, this Court directs the respondent No. 1 to decide the representation, filed by the petitioners, within a period of three months from the date of

receipt of certified copy of this judgment. Respondent No. 1 is further directed to decide the representation only after giving an opportunity of personal

hearing to the members of the Association.

10) With these directions, this appeal stands disposed of.