
(2007) 09 P&H CK 0084
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 8233 of 2005

Gurnam Singh and others	Vs	APPELLANT
State of Punjab and others		RESPONDENT

Date of Decision : 28-09-2007

Acts Referred:

Citation : (2008) 1 RCR(Civil) 634

Hon'ble Judges : Vijender Jain;CJ., J and Mahesh Grover, J

Advocate : Shri S.S. Toor, Advocate.For the Respondent Nos. 1 to 4, Shri A.G. Masih, Sr. Dy. Advocate General, Punjab.For the Respondent Nos. 5 to 11, Shri H.S. Sawhney, Sr. Advocate with Shri B.S. Giri, Advocate., Advocates for appearing Parties

Judgement

Vijender Jain, C.J.

1. The petitioners, in this petition under Articles 226 and 227 of the Constitution of India, have sought quashing of order dated 5.3.2004 (Annexure P2, which has been described as the proceedings of the meeting qua item No. 6) passed by the Additional State Transport Commissioner, Punjab (respondent No. 3) whereby the application filed by respondent No. 5 Sukhminder Singh for curtailment/diversion/extension of the route for which he was holding a mini bus permit No. 1079/MB/R/03 with four return trips daily was accepted. They have also prayed that order dated 4.8.2004 (Annexure P3) passed by the State Transport Appellate Tribunal, Punjab (hereinafter described as `the STAT") vide which the revision petitions preferred against cumulative order dated 5.3.2004 of respondent No. 3 have been dismissed being time barred, be quashed. Still further, the petitioners have made a prayer that Rule 122 of the Punjab Motor Vehicles Rules, 1989 be declared as ultra vires to the provisions of the Motor Vehicles Act, 1988.

2. The petitioners have filed the present petition purportedly as public interest litigation by styling themselves as the residents of the areas, who were affected by the curtailment/diversion/extension of the route in question. They have made a pointed reference to the finding of the STAT recorded in Annexure P3, which,

while commenting upon the curtailments/diversion/ extension, has observed as under :

"Thus, in my view, the curtailments, diversion and extension granted in these cases by the RTA have not served the public convenience. Secondly, I am of the view, that it would rather have been expedient to grant separate permits in respect of the varied route instead of allowing the applications of the private respondents. Finding on the second point, thus, goes in favour of the petitioners and against the respondents."

The above reproduced finding was not challenged by the State and hence, the same assumed finality, but it lost its relevance for the State ostensibly because the revision petitions were dismissed on the issue of limitation.

3. In their written statement, respondent Nos. 1 to 4 have taken up an objection that the present writ petition could not be termed as a public interest litigation as petitioner No. 1 was a rival operator and a transporter himself. They have averred that two earlier petitions, i.e. CWP Nos. 12079 of 2004 and 6219 of 2005 filed for grant of similar relief were dismissed as withdrawn and even the present petitioner Nos. 1 to 7 were the petitioners at the same serial numbers in the latter petition, i.e. CWP No. 6219 of 2005, which was also filed in public interest, wherein also, a similar objection was taken by them that three out of ten petitioners therein were operators themselves and faced with that situation, the said writ petition was withdrawn with leave and liberty to take recourse to appropriate remedy for redress of the grievances. It has also been stated that the present petition has been filed by excluding those three persons, but in any eventuality, it remains a continuation of the earlier proceedings and hence, the same, in the garb of a public interest litigation, is not maintainable and deserves dismissal as it seeks to serve a personal interest.

4. We have heard the learned counsel for the parties at some length and have perused the record.

5. There is no denial of the fact that CWP No. 6219 of 2005 had been filed by present petitioner Nos. 1 to 7 along with several others and the same was dismissed as withdrawn with liberty to take recourse to the remedy available to them under the law. The necessity to withdraw the said writ petition arose when it was pointed out that some of the petitioners therein were transport operators themselves, who had their own axe to grind. Even in the present petition, one of the petitioners is stated to be a transporter to which there is no denial by them.

6. The genesis of the present proceedings, therefore, is clearly stemming from personal interest of the rival operators amongst whom there is always a keen contest to corner the most lucrative route which can fetch fruitful returns for them.

Such a view from the private operators can be expected as their sole concern in pursuing the profession of a transporter is a derivative of a desire to make profit.

7. But, we are surprised at the attitude of the State Government because once the STAT, which, as a quasi judicial authority, had observed that the curtailment/diversion/extension of the routes was against public interest, then it became the duty of the concerned authorities to address themselves to the situation and take remedial measures to remove the problems. Instead of taking any steps, the State and its authorities chose to slumber on; abandoning the interest of the public at large and slyly acquiescing to the interest of the private operators.

We feel that the State should have discharged its duty by rectifying the position after addressing itself to the concerns of the residents of the area.

8. Having regard to the fact that some private operators had filed earlier writ petitions, as also the fact that one of the petitioners herein is a private operator himself, we do not wish to answer the writ petition in the realm of public litigation, but as a Court, we cannot shirk our responsibility once an infirmity has been brought to our notice as reflected in order dated 4.8.2004 (Annexure P3) and reproduced in the foregoing paragraphs.

We, therefore, dispose of this writ petition with a direction to respondent Nos. 1 and 2 to immediately take remedial measures in accordance with the observations made by the STAT in Annexure P3. The needful be done within a period of six weeks from the date of receipt of a copy of this order.