

(2010) 12 SHI CK 0204
In the High Court Of Himachal Pradesh
Case No : CWP No. 7716 of 2010

Jasbir Singh

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 13-12-2010

Acts Referred:

Citation : (2010) 12 SHI CK 0204

Hon'ble Judges : Kurian Joseph, C.J;V.K. Ahuja, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The writ petition is filed with the following prayers:

(i) That a writ in the nature of certiorari may kindly be issued and impugned order Annexure P-6 may kindly be quashed, with further prayer to issue a writ of mandamus directing the Respondent No. 2 to allow the present Petitioner to ply his bus on the route mentioned in Annexure P-1 (issued by the Respondent No. 5) and keeping in view the conditional recommendations (Annexure P-3) of the Superintendent of Police, Solan (dated 26.7.2010), conditional recommendations of the Sub-Divisional Magistrate, Solan dated 27.7.2010 (Annexure P-4) and Regional Transport Officer, Solan dated 6.8.2010 (Annexure P-5), in the interest of law and justice.

(ii) That the action of the Respondent No. 2 may kindly be declared as illegal, arbitrary and unconstitutional, while issuing Annexure P-8, dated 19.11.2010 wherein a wrong information was supplied, which itself makes the Annexure P-6 as illegal and arbitrary.

(iii) That the Respondent No. 5 may kindly be directed to exempt the Petitioner to pay the Special Road Tax (SRT) pertaining the vehicle No. HP-14-B6598 till the plying of the vehicle in question as per Annexure P-1.

(iv) That the Petitioner may be held entitled for costs in view of the fact that annexure P-6 is not a speaking order and the information received vide Annexure

P-8 is totally wrong and false.

2. The learned Deputy Advocate General, on instructions, submits that the decision taken by the RTA in favour of the Petitioner still stands. It is seen that Petitioner has been issued the permit also. There is also a report in favour of the Petitioner by the Superintendent of Police and the SDM. However, it is submitted that in view of larger public interest, the Deputy Commissioner, as per Annexure P-6, has taken a decision not to permit the Petitioner to ply the bus. We are afraid, the stand taken by the Deputy Commissioner, as per Annexure P-6, is not in accordance with law. Once a decision under the Motor Vehicles Act has been duly taken by the competent forum namely RTA and the permit having been issued accordingly, the Deputy Commissioner cannot sit in appeal over that decision. He has no power either to modify or vary the decision of the RTA. The same can be duly varied, modified or annulled only by the STAT. Therefore, this writ petition is disposed of quashing Annexure P-6 and making it clear that so long as the decision taken by the RTA stands, the Petitioner shall be permitted to operate the vehicle in terms of the decision by the RTA and as per the permit issued in that regard.

3. All the pending application(s), if any also stand disposed of.