

(1967) 11 P&H CK 0001
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1709 of 1967

Lachhman Singh	Vs	APPELLANT
State of Punjab and another		RESPONDENT

Date of Decision : 29-11-1967

Acts Referred:

Motor Vehicles Act, 1988 — Section 60

Citation : (1968) 1 ILR (P&H) 762 : (1968) 70 PLR 441

Hon'ble Judges : Tek Chand, J

Bench : Single Bench

Advocate : Laxmi Grover, for the Appellant; Gopal Singh Advocate-General Punjab with Mr. G.R. Majithia, for the Respondent

Final Decision : Dismissed

Judgement

Tek Chand, J.—The petitioner carries on the business of passenger transport and is holder of a contract car-ratge permit which was issued to him by the Regional Transport Authority, Jullundur. On 3rd of August, 1967, the Regional Transport Authority suspended the petitioner's permit for a period of six months on the ground, that the petitioner was detected carrying ten passengers against six as authorised by the Motor Mobile Patrol Sub-Inspector, Amritsar, on 15th of September, 1965. A show-cause notice was issued to the permit-holder, to which he made no response. It was pointed out that there were already seven convictions against the petitioner and two cases of overloading were pending in the court. The Regional Transport Authority felt that the petitioner was habitual offender and overloading in his vehicle resulted in extreme inconvenience to the travelling public. As he had contravened the provisions of section 60 of the Motor Vehicles Act, the Regional Transport Authority suspended his permit, No. 197/MCR/64 covered by vehicle No. PNQ-1501, for a period of six months. This order of the Regional Transport Authority is dated 3rd of August, 1967.

2. The petitioner's contention is. that he had been discriminated against. The Regional Transport Authority has fixed a scale of composition-fee payable by the

permit-holders for overloading tempos and other Vehicles. A copy of the scale-sheet has been attached as annexure "A". It was said, that the Regional Transport Authority had been compounding such offences, but in his case the alleged offence was not compounded, although the petitioner offered to pay the composition-fee. This order of the Regional Transport Authority (annexure "B") is sought to be quashed.

3. u/s 60, sub-section (1) of the Motor Vehicles Act, the Transport authority which granted a permit has the power to cancel the permit, or to suspend it, for such period as it thinks fit, on the breach of conditions indicated in the section. Sub-section (5) of this section was added by section 54 of the Motor Vehicles (Amendment) Act, 1956, and provides-

60 (3) Where a permit is liable to be cancelled or suspended under clause (a) or clause (b) or clause (e) of sub-section (1) and the transport authority is of opinion that having regard to the circumstances of the case, it would not be necessary or expedient so to cancel or suspend the permit if the holder of the permit agrees to pay a certain sum of money, then notwithstanding anything contained in sub-section (1), the transport authority may, instead of cancelling or suspending the permit, as the case may be, recover from the holder of the permit the sum of money agreed upon." It is an enabling provision empowering the Transport Authority to recover from the holder of the permit a sum of money instead of cancelling or suspending the permit. The petitioner's case is that he has been discriminated against in so far as the Regional Transport Authority has prepared a scale of composition-fee payable by the permit-holders for overloading in tempos, vide annexure "A". The scale is as under:-

Serial No.

Extent of overloading

Rate of composition-fee

1.

1 to 3 passengers

Rs. 15/- per passenger

2.

4 to 5 passengers

Rs. 20/- per passenger

3.

6 to 8 passengers

Rs. 25/- per passenger

4.

9 to 10 passengers

Rs. 30/- per passenger or sus-pension

5.

Beyond 10 passengers

Suspension.

In my view the petition is totally devoid of merit. In so far as the matter of composition fee is concerned, it is within the discretion of the Transport Authority which is the judge of the circumstances of the expediency by which it is to be guided in the matter of compounding the transgression. In this case the Regional Transport Authority declined to exercise its discretion in petitioner's favour, as it came to the conclusion that the petitioner was habitual offender, and that he had been convicted seven times before and two cases of overloading were pending in the Court. He was detected carrying ten passengers against six which he could carry. I cannot help observing that compounding of penalties in the manner indicated in annexure "A", is reprehensible; it virtually means that breaches of conditions of permit may not be punished and the penalty of cancellation or suspension of a permit may be avoided on payment of a composition-fee. In the course of time, the permit-holders cease to treat a breach, on their part, of the provisions as a punishment, but only a licence, which they can buy by making the payment according to the artificially fixed scale of composition fee devised by the Regional Transport Authority. For instance, a person may get away with the penalty in the form of cancellation or suspension of his licence, on payment of a sum of Rs. 30/- and yet carry nine to ten passengers in a vehicle providing room for six only. The scale of composition-fee does not take into consideration the inconvenience to which the passengers may be subjected as a result of overloading. The formula must be deprecated, as the breach is no longer visited by a deterrent penalty of suspension or cancellation of the permit, and the circumvention becomes a purchaseable privilege. A scheduled scale of immunity is wrong in principle, and encourages recurrent contravention of statute, so long as transgression is profitable.

4. Moreover, the composition in lieu of suspension or cancellation of permit which is left to the unrestricted and unchannelised discretion of the Regional Transport Authority can lead to making of invidious distinctions and even pervert or defeat public justice.

5. Over-crowding of passengers-more especially in three wheeled vehicles which have a tendency to tilt and overturn, apart from the great inconvenience caused to them, is one of the causes of mishaps, sometimes disastrous.

6. A dangerous propensity motivated by avarice, characterised by reckless exposure of the travelling public to grave dangers, and invariably subjecting them to serious discomfort, must be suppressed rather than licensed. The breach of a condition against overloading is not a mere peccadillo which may be lightly

overlooked. A strict enforcement of the provision as to suspension or cancellation of permit will be conducive to making travelling safer and in reducing preventive hazards of the journey. On the other hand, a laxity shown by compounding infractions, and that too for a paltry sum, as indicated in the composition fee scale would be tantamount to abetment of breaches which have lethal potentialities. The power given to the transport authority to recover from the permit holder a sum of money as may be agreed upon, is meant to be exercised in extremely rare cases, and the discretion is intended to be used after serious circumpection, and in the presence of genuinely mitigating circumstances. The wholesome and deterrent effect of penalties of suspension and cancellation of permits, ought not to be thrown away by ready acceptance of composition fees.

7. The plea of the petitioner, that his permit should not have been suspended, and instead a composition "fee of thirty rupees as per scale should have been charged in the background of the facts, and of his previous record of habitual violations, borders on the frivolous; and more so, his contention that he has been discriminated against out of mala fides of the transport authority.

8. The petition is devoid of merit and no interference with the order of the suspension of the permit is called for. Consequently, it is dismissed with costs.