

(2022) 05 SHI CK 0009

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 1173 Of 2014

M/S Sharma Bus Service

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 02-05-2022

Acts Referred:

Constitution Of India, 1950 — Article 14, 19(1)(G), 21, 301
Motor Vehicles Act, 1988 — Section 70, 72

Citation : (2022) 05 SHI CK 0009

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Neel Kamal Sood, Arvind Sharma, Narender Singh Thakur, Shubh Mahajan

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. This writ petition has been filed for the grant of following substantive reliefs: -

"i) Annexure P-6, issued by the Respondent No.5, i.e. Office Order dated 30.11.2013, vide which bus for the route Shimla-Solan on fixed fare @ Rs.40/- has been ordered to be plied, may kindly be ordered to be quashed and set aside and further the Respondents may kindly be restrained from plying Himachal Road Transport Corporation bus on Shimla- Solan route, without resorting to the provisions of Motor Vehicle Act, 1988 and rules framed thereunder and without complying with the provisions of Sections 70 & 72 of the Motor Vehicle Act, 1988 as amended up to date).

ii) The Respondents may kindly be further directed to comply with Annexure P-3, Annexure P-4 & Annexure P-5 and act in accordance with the said Annexures and fare rate be ordered to be charged accordingly as per Annexure P-4, Annexure P-5 i.e. Rs.68/- for one side from Shimla to Solan.

iii) Directing the Respondents not to ply Himachal Road Transport Corporation

bus owned by Respondents No.5&6, parallel to the bus of the Petitioner, which is causing impediments in the free trade and flow of the trade and business of the Petitioner and is violating provisions of Articles 14, 19(1)(G), 21 & 301 of the Constitution of India. And further plying of bus on the strength of Annexure P-6 is totally in violation of the judgment of Hon'ble Supreme Court of India dated 04.03.2008, passed in Appeal (Civil) No.1732/2008, in case titled as ' Pancham Chand & Others Vs State of H.P. & Others" annexure as Annexure P-9 with the writ petition."

2. During hearing of the case today, learned counsel for the petitioner submitted that relief Nos. (i) and (ii) have been granted to the petitioner during pendency of the petition, therefore, no dispute remains pending between the parties in respect of these two reliefs. It was further submitted that relief No.(iii) pertains to the alleged prejudice caused to the petitioner on account of parallel running of a bus by Himachal Road Transport Corporation on the same route as is allowed to the petitioner.

3. In respect of the disputes regarding time table issued to the petitioner, following has been mentioned by respondents No.1 to 4 in their reply:-

"19 That the time table is issued to the applicant on the available frequency on the segment. The office does not issue time table in advance alongwith grant letter, because there are many existing operators already operating on the segment have to be taken care of. Provisional time table is issued in favour of applicant later on regular time table is issued in joint time table meeting. If any objection is received from any stake holder same is settled in joint time table meeting.

20. In reply to this Para it is submitted that time Table is a condition of permit as prescribed under Section 72 of Motor Vehicle Act, 1988. Regional Transport Officer from time to time convene the joint Time Table meeting in their respective jurisdiction in the present of existing operators of same route/line and representatives of Himachal Road Transport Corporation, so that problem of parallel running of buses/clash of timing is avoided."

Taking note of above submissions, this writ petition is disposed of by permitting the petitioner to prefer his representation regarding time table for the route in question to respondents No.3 and 4/competent authority within a period of three weeks from today, who shall consider and decide the same, in accordance with law, within further three weeks. The decision so arrived at, will be communicated to the petitioner. Pending miscellaneous application(s), if any, also stand disposed of.