
(2010) 08 AHC CK 0200
In the Allahabad High Court

Pitamber Singh

APPELLANT

Vs

Pravin Shankar Rai, Regional Transport Officer

RESPONDENT

Date of Decision : 03-08-2010

Acts Referred:

Citation : (2010) 08 AHC CK 0200

Hon'ble Judges : Vikram Nath, J

Bench : Single Bench

Judgement

Vikram Nath, J.—Sri A.C. Mishra, learned Standing Counsel has filed a short counter affidavit on behalf of the opposite party, Praveen Shankar Rai, A.R.T.O. (Enforcement), Bijnor. The same is taken on record.

2. Heard learned Counsel for the applicant and Sri A.C. Mishra, learned Standing Counsel for the opposite party.

3. The Apex Court in the case of Paramajit Bhasin and Ors. v. Union of India and Ors. reported in 2006 (1) AWC 158 (SC) in paragraph 12 directed that the State Government should make necessary arrangements to ensure that the compounding of overloading which was held to be an offence no longer continued. It further directed that the State Government should withdraw such notification of compounding and should ensure that no vehicle overloaded is allowed on road. Pursuant thereto, when the State of U.P. was not making necessary compliance of the judgment of the Apex Court, writ petitions were filed, one of them being Writ Petition No. 53211 of 2008 Pitamber Singh v. State of U.P. and Ors. filed by the applicant. The said writ petition was disposed of vide order dated 17.10.2008. The Division Bench while disposing of the said petition permitted the applicant Society to assist the police at least in the district Bijnor to check that the overloaded vehicles are not permitted to ply and further that the directions contained in the judgment of the Apex Court be followed.

4. In the short counter affidavit, filed today, what has been stated is that although the overloaded vehicles are being checked and seized but after taking

penalty, the overloading is compounded and no de-overloading activity is carried out. It is further submitted that the Enforcement Department of Regional Transport Office, Bijnor has already made a recovery of Rs. 93,98,900/- as compounding fee from the overloaded vehicles for the period 1.4.2009 to 28.2.2010. It is further mentioned in the order dated 23.3.2010 that an amount of Rs. 8,60,650/- has been recovered from 1.3.2010 till 23.3.2010.

5. The order of the Apex Court is not giving license to the Transport Authorities to raise funds but was to the effect that overloading is to be removed. Nothing has been placed on record to show what steps has been taken by the State Government in pursuance to the directions of the Apex Court in the case of Paramajit Bhasin (*supra*).

6. List this case on 31.08.2010. By the said date the Principal Secretary, Transport and the Transport Commissioner shall file their respective affidavits to place on record the compliance of the judgment of the Apex Court in letter and spirit.

7. A copy of this order may be sent to them by Sri A.C. Mishra, learned Standing Counsel within three days. It will be open to the learned Counsel for the applicant to make a mention on the next date for taking up the case out of turn in case there is likelihood of the case not being taken up.

8. A copy of this order may be provided to Sri A.C. Mishra, learned Standing Counsel free of costs within 48 hours for necessary compliance.