

(2002) 07 P&H CK 0007

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 17212 of 2001

Sirhind Bus Service Registered

APPELLANT

Vs

State Transport Commissioner and Another

RESPONDENT

Date of Decision : 17-07-2002

Acts Referred:

Motor Vehicles (Amendment) Act, 1986 — Section 100, 99

Citation : (2002) 4 RCR(Civil) 520

Hon'ble Judges : Kiran Anand Lall, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : B.S. Giri, for the Appellant; Charu Tuli, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

G.S. Singhvi, J. 1. Whether the scheme framed by the Government of Punjab u/s 99 read with Section 100 of the Motor Vehicles Act, 1988 (for short, the Act) can be made basis for grant of permit on inter-State routes even though the same has not been approved by the Central Government is the question which arises for determination in this petition filed by Sirhind Bus Service for quashing orders Annexure P.3 and P.4 passed by State Transport Commissioner, Punjab, exercising the powers of Regional Transport Authorities, Patiala, Jalandhar and Ferozepur (respondent No.1) for grant of permits to Punjab Roadways (respondent No.2) for operating buses on Chandigarh-Khanna via Mohali, Chuni, Landran and Sirhind and Chandigarh-Sirhind via Mohali, Chuni and Landran routes.

2. The petitioner is operating buses on Doraha-Kharar via Sirhind, Chuni, Landran, "Mohali and Sirhind - Ropar via Chuni, Landran, Mohali, Kharar, Kurali routes. It has challenged the orders passed by respondent No.1 on various grounds including the one that the scheme framed by the State Government under sections 99 and 100 of the Act, which was published in notification dated 9.8.1990 cannot be used for grant of permit to respondent No.2 on inter-State routes because the same has not been approved by the Central Government.

3. In the written statement filed on behalf of respondent No.1, it has been averred that as per the scheme notified on 9.8.1990, which was modified vide notification dated 21.10.1997, the State Transport Undertakings have the exclusive right to operate bus services on the inter-State routes, and as the routes in question are such routes, respondent No.1 did not commit any illegality by granting permit to respondent No.2. According to respondent No.1, the petitioner cannot question the grant of permit to respondent No.1 on inter-State routes because it does not have the right to seek permits on those routes.

4. Shri B.S. Giri invited our attention to the averments contained in the writ petition to the effect that the scheme published vide notification dated 9.8.1990 has not been approved by the Central Government and argued that in the absence of such approval, the scheme cannot be made basis for grant of permits to respondent No.2 on inter-State routes to the exclusion of others, In support of his argument, Shri Giri relied on order dated 5.11.2001 passed in C.W.P. No. 6491 of 2000- Manak Bus Service v. Union Territory, Chandigarh and Ors. and other connected petitions.

5. The learned Senior Deputy Advocate General candidly conceded that the scheme published in 1990 has not been approved by the Central Government. She further stated that the scheme was forwarded to the Central Government, but the same did not grant approval.

6. A perusal of orders Annexures P.3 and P.4 shows that respondent No.1 granted permits to respondent N6.2 on the routes in question which are admittedly inter-State routes by applying the principle of total exclusion in favour of the said respondent. This, in our opinion, is clearly impermissible because the scheme notified by the government has not been approved by the Central Government as required by proviso to section 100(3) of the Act. In the case of Manak Bus Service (supra), this Court considered the question as to whether the scheme framed by the Government of Punjab can be applied for inter-State routes even though the same was not approved by the Central Government and answered the same in the negative.

7. Hence, we allow the writ petition and quash orders Annexures P.3 and P.4 and direct respondent No.1 to grant permits on the routes in question in accordance with law. The needful be done within 3 months of the receipt of copy of this order. Till then, respondent No.2 should be allowed to operate buses on the routes notwithstanding the fact that permits granted to it have been quashed.

Sd/- Kiran Anand Lall, J.