

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.3375 of 2014 (O&M)

Tarlok Singh...Petitioner

Versus

State Transport Appellate Tribunal, Punjab and others...Respondents

1	The date when the judgment is reserved	14.07.2026
2	The date when the judgment is pronounced	04.08.2026
3	The date when the judgment is uploaded on the website	04.08.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not Applicable

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Ashu Mohan Punchhi, Senior Advocate, with
Mr. Himanshu Rajput, Advocate, for the petitioner.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Mr. Sumeet Mahajan, Senior Advocate, with
Mr. Shrey Sachdeva, Advocate,
Ms. Mivakshu, Advocate,
Ms. Harpreet Kaur, Advocate, for respondent no.3.

TRIBHUVAN DAHIYA, J.

The petition has been filed *inter alia* seeking a writ of *certiorari* setting aside the order dated 30.01.2014, Annexure P-15, passed by the first respondent/State Transport Appellate Tribunal (for short, ‘the Tribunal’),

whereby renewal of stage carriage permit on Jalandhar to Batala route



transferred in the petitioner's name has been cancelled on the ground that it was originally invalid.

2. Facts of the case in brief are, the Punjab Government had reserved twenty-five per cent stage carriage permits to be granted in any calendar year for the Scheduled Castes (SC) domiciled in the State, vide notification dated 13.09.1979. This was in exercise of powers conferred under sub-sections (1-A) and (1-B) to Section 47 of the Motor Vehicles Act, 1939 (for short, 'the 1939 Act'). One Munish Malik, who was from a Scheduled Caste, was granted regular stage carriage permit no.247/Reg/Stage/89 for plying half trip daily on Jalandhar to Batala route via Subhanpur, Mehta for three years by the second respondent/State Transport Commissioner (for short, 'the STC'), vide order dated 17.09.1988, Annexure P-1. After expiry, the permit was renewed under provisions of the new act/Motor Vehicles Act, 1988 (for short, 'the 1988 Act'), enforced with effect from 01.07.1989 after repealing the 1939 Act. The third respondent/Mohali Bus Service had also applied for the said permit through its managing partner, Mohinder Singh. His application was rejected on the ground that he had already been granted such permit on the basis of reservation.

2.1. After about eleven years, the third respondent filed an appeal before the Tribunal under Section 89 of the 1988 Act, challenging the order dated 17.09.1988 refusing the grant of permit to it. The appeal was dismissed being time barred vide order dated 05.03.2002, Annexure P-2; relevant extract whereof reads as under:

I have gone through the record and heard the arguments of both the parties and the certificate issued by the District Welfare Officer to the effect that Munish Malik was Scheduled



Caste candidate under the category recognized by Punjab Government and was not a Government servant at the time of granting permit. The permit was rightly granted in the year 1988. The Appellant applied for the certificate only in the year 1998. There is no ground to explain the delay of ten years in filing the present appeal. Therefore, the present appeal is hopelessly time-barred. Moreover, the permit has been renewed two times and thereafter the permit has been transferred to the new operator. The disqualification incurred by the old grantee after the grant of permit and renewal of permit are no ground to reject the original order of granting permit in the year 1988. The appeal is thus unjustified and hopelessly time-barred and the same is dismissed.

The order attained finality and was never challenged by the third respondent.

In the meanwhile, the permit granted to Munish Malik, which had been renewed in 1992, was again renewed in 1997 and 2002.

2.2. On 29.04.2002, the third respondent filed a civil suit for declaration, Annexure P-3, to the effect that Munish Malik was not from a Scheduled Caste. No declaration was sought with respect to the permit.

2.3. During validity of the permit which was up to 23.06.2007, the permit holder/Munish Malik and the petitioner moved a joint application for transfer of the Bus (PB-08/W-1424) along with the rights of stage carriage permit in the latter's name; the objector/third respondent was also on notice to appear in the proceedings before the STC to consider the application. He objected to the transfer, but rejecting his objections the application was allowed. And transfer of the bus along with rights of stage carriage permit no.247/Reg/Stage/89 for plying half return trip daily on Jalandhar to Batala route in the petitioner's name was permitted vide order dated 10.01.2005,



Annexure P-4. Thereafter, his application for increase in trips was also accepted by the STC, vide order dated 10.07.2006, Annexure P4/A, after hearing the third respondent, and the daily trips on the route were increased from half to one.

2.4. In October 2007, the third respondent filed an application in his pending suit for declaration, seeking amendment of plaint under Order VI Rule 17 CPC; it was to the effect that the route permit granted in favour of Munish Malik be treated as null and void, and that the third respondent be held entitled to it being an SC. The application was allowed by the trial Court vide order dated 01.04.2008, which was challenged before this Court by Munish Malik by filing a revision petition, CR No.2586 of 2008, and the trial Court order was stayed vide order dated 12.08.2010. Another application was filed by the third respondent to implead the petitioner as a defendant on the ground that the permit in question had been transferred to him and in case he was not impleaded, no effective relief would be granted; the application was dismissed by the trial Court vide order dated 24.11.2009, Annexure P-6. Subsequently, the suit was unconditionally withdrawn by the third respondent, and it was dismissed as such by the trial Court vide order dated 08.10.2015; a copy of the order furnished by learned counsel for the petitioner has been retained on the case file as Annexure 'A'.

2.5. The permit transferred to the petitioner vide order dated 10.01.2005 was valid up to 23.06.2012, and he applied for its renewal by submitting an application along with requisite fee on 10.05.2012. The third respondent again objected to the renewal on the ground that the grant of permit originally to Munish Malik was on the basis of forged documents.

Considering all the facts, including the subsequent renewals and transfer of



permit in the petitioner's name, the application was accepted and the permit was renewed for a period of five years by the Regional Transport Authority, Jalandhar (for short 'the RTA'), vide order dated 28.06.2012, Annexure P-14; relevant extract whereof reads as under:

In view of the foregoing discussion, I Jaskiran Singh, PCS Secretary, Regional Transport Authority, Jalandhar in exercise of the powers delegated to me by the State Transport Commissioner, Punjab hereby allow regular renewal of Stage Carriage Permit No. 247/Reg/Stage/89 for operation of one return trip daily on Jalandhar to Batala via Kartarpur, Subhanpur, Beas, Mehta route covering bus No. PB08/BT-8024 for further period of five years from the date of expiry of the same in public interest subject to usual terms and conditions and further with specific condition that the decision of the Hon'ble Civil Court and High Court regarding status of Scheduled Caste of Mr. Munish Malik S/o L.R. Malik (initial permit holder) shall be applicable to the present permit holder. Shri Tarlok Singh has given in writing to the authority for the same.

2.6. Not to relent, the third respondent pursued his case against Munish Malik and approached the State Welfare Department seeking cancellation of SC certificates issued to him, dated 09.10.1985 and 01.06.1987. The objection was finally decided by the State Level Scrutiny Committee vide order dated 17.01.2014, Annexure P-12, and the said certificates were cancelled. The relevant part of the order reads as under:

3. That a complaint was received from Sh. Mohinder Singh s/o Sh. Kesar Singh, resident of Mohali Bus Service, B-1-48, Anand Nagar, Maqsudan, Tehsil and Distt. Jalandhar for conducting an enquiry into the certificates of scheduled caste obtained by Dr. Manish Malik s/o Sh. Lajpat Rai Malik, Medical Officer, ESI Hospital, Jalandhar, village Dakoha, Tehsil and Distt. Jalandhar.



4. That in this connection, complaint was received for conducting enquiry. In this connection, Vigilance Cell situated in the office of Director, Scheduled Castes and Backward Classes, Welfare Department was written to conduct enquiry.

5. That the Vigilance Cell had forwarded the proceedings conducted in the meeting held on 27.4.2012 (enquiry report) to Scrutiny Committee set up at the level of the Govt. for taking final decision, on which the Govt. expressed its consent.

6. That Sh. Manish Malik had filed Civil Writ Petition No.8165 of 2011 in Hon'ble High Court in this regard and in view of the orders dated 22.11.2013 passed by Hon'ble Court, after hearing the complainant, petitioner's advocate and concerned in the meeting of the Scrutiny Committee held on 11.12.2013, Vigilance Cell was asked to submit its report till 31.12.2013 after hearing the concerned parties on 24.12.2013. After receipt of the said report, the meeting of the scrutiny committee was fixed.

7. That in this connection, meeting of the Scrutiny Committee was held on 8.1.2014, in which both the certificates i.e certificate No. 5021 dated 9.10.1985 of scheduled caste (Bard, adharmi and Rawat) and certificate No. 2927 dated 1.06.1987 issued by District Welfare Officer, were found false.

8. That in the meeting of the Scrutiny Committee held on 08.01.2014, both the certificates issued to Sh. Manish Malik i.e Scheduled Caste Certificate No. 5021 dated 9.10.1985 and No. 2927 dated 1.06.1987 are cancelled as the same were found false.

9. As per Notification No. 9/12/2003-B1/759 dated 12.09.2011 of the Welfare Department (Reservation Cell), Govt. of Punjab, all the concerned officers, offices and establishments be written to take further necessary action keeping in view the cancellation of certificates of scheduled caste.

2.7. In the light of this order by the Scrutiny Committee cancelling the SC certificates of Munish Malik, the third respondent filed a revision



petition before the Tribunal against the order dated 28.06.2012, whereby the petitioner's application for renewal of stage carriage permit had been conditionally allowed. It was stated that initially the permit was issued to Munish Malik out of the quota meant for the SCs, but his SC certificates were not found genuine and the concerned department was directed to cancel the same, vide order dated 17.01.2014. The petition was allowed vide order dated 30.01.2014, and the renewal of permit in favour of the petitioner was set aside. The order reads as under:

5. In view of the aforesaid situation, the renewal of the permit which was originally invalid also becomes void and needs to be set aside. Consequently, the present Revision Petition stands allowed. The impugned order, whereby the permit in favour of respondent No.2 Tarlok Singh has been renewed on Jalandhar-Batala route is set aside. File be consigned to the Record Room. Copy of this order be sent along with the record to the Secretary, RTA, Jalandhar.

2.8. The petitioner, therefore, approached this Court by filing the instant petition challenging the said order, dated 30.01.2014, and its operation was stayed vide interim order dated 24.02.2014; ever since he has been plying the bus on the route.

3. In this factual background, Mr. Punchhi, learned senior counsel for the petitioner *firstly* contended that it was irrational to cancel the permit transferred to the petitioner merely because the original permit holder did not belong to a Scheduled Caste. Although the permit had initially been allotted on the basis of reservation policy under the 1939 Act, but it was transferred to the petitioner under the 1988 Act vide order dated 10.01.2005, whereunder there was no provision for reservation in allotment of tenders.

This transfer was approved after considering the objections of the third



respondent. Also, it was later renewed by the competent authority vide order dated 28.06.2012. Therefore, cancellation of SC certificates issued to the initial permit holder/Munish Malik would have no bearing on the petitioner's permit; it was never challenged even. Still further, there is no bar under the provisions of 1988 Act on transfer of permits earlier issued to the reserved category applicants; meaning thereby, the permits issued to reserved category applicants can be transferred to any person. And this is the stand of the respondents/authorities also, as apparent from the written statement filed on their behalf, dated 23.04.2014. *Secondly*, he contended that the permit was initially issued to Munish Malik in 1988, and appeal to challenge the same was filed by the third respondent after eleven years which was dismissed vide order dated 05.03.2002; it was never questioned further and attained finality. The impugned order in effect upsets this order, that too without hearing the original allottee, which makes it unsustainable. *Thirdly*, the petitioner is a *bona fide* transferee of the vehicle along with rights of permit in terms of order dated 10.01.2005, and has been operating on the route ever since. He cannot be blamed for any wrong act attributed to the original permit holder/Munish Malik. To cancel the permit for such an action with which the petitioner is not even remotely concerned, is inequitable and should not be permitted.

4. *Per contra*, Mr. Mahajan, learned senior counsel representing the third respondent contended that the petitioner's permit has been rightly cancelled as he is beneficiary of fraud committed by Munish Malik, to whom the permit could not have been issued under the 1939 Act since he did not belong to a Scheduled Caste; consequently, the permit could not have been transferred either. Fraud vitiates all subsequent actions which is the



settled law, as laid down by the Supreme Court in *SREI Equipment Finance Limited v. Ramjan Ali and others*, (2022) 9 SCC 547. Secondly, he contended that the restraint on transfer of permit issued to reserved category applicants under Section 43-A of the 1939 Act, would continue to operate under the 1988 Act as well. It is because Section 217 (2)(b) of the 1988 Act stipulates that any certificate or permit issued under the repealed Act (the 1939 Act) shall continue to have effect under the same conditions; accordingly, the conditions of old act would remain applicable under the 1988 Act also, and transfer of permit thereunder to the petitioner, who is not an SC, therefore becomes unsustainable. In this context, he has also referred to order dated 28.06.2012, granting renewal of permit to the petitioner, which records that it is with the specific condition that decision of this Court regarding SC status of Munish Malik would be applicable to the permit holder/petitioner. This has been agreed to by the petitioner himself in writing. Resultantly, he has no right to hold the permit as per clear provisions of law and also his own undertaking, after cancellation of SC certificates of Munish Malik.

5. Submissions made by learned counsel for the parties have been considered.

6. As apparent on record, the permit in question was initially issued to Munish Malik on 17.09.1988 as an SC category applicant, after rejecting the third respondent's claim since he had already availed the benefit of reservation to get such a permit. The grant of permit was not challenged for over a decade. In the meanwhile, it was duly renewed by the competent authority, firstly in 1992, and then in 1997. After about eleven years, the third respondent filed an appeal against the allotment of permit on



19.01.1999. It was dismissed by the Tribunal being time-barred vide order dated 05.03.2002, which attained finality in all respects. The petitioner came in picture much later when he sought transfer of the permit in his name by moving an appropriate application, which was accepted by the competent authority/STC after notice to the objector/third respondent, vide order dated 10.01.2005. Ever since he has been plying the vehicle on this route, as the permit was subsequently renewed also for a period of five years vide order dated 28.06.2012. Prior thereto, despite remaining unsuccessful before the Tribunal, the third respondent approached the Civil Court by filing a suit for declaration, dated 29.04.2002, that Munish Malik did not belong to a Scheduled Caste. His later attempts to implead the petitioner and challenge the transfer of permit to him by amending the plaint remained unsuccessful, and finally he unconditionally withdrew the suit, which was dismissed as such vide order dated 08.10.2015. Another development took place after some time, i.e., the SC certificates issued to Munish Malk were cancelled by the State Level Scrutiny Committee vide order dated 17.01.2014. The connected petition filed by him, CWP No.12531 of 2014, challenging this order has been dismissed being not maintainable by this Court vide order of even date; it is on account of his approaching the Court with unclean hands, concealing the earlier dismissal of a civil suit on the same cause.

7. On the basis of Committee's order dated 17.01.2014, the third respondent filed a revision petition against the order dated 28.06.2012 renewing the permit in petitioner's favour for five years, which has been accepted vide impugned order, dated 30.01.2014, and the permit transferred to him has been set aside only on account of cancellation of Scheduled Caste certificate issued to Munish Malik. Undisputedly, despite directions having



been issued vide order dated 17.01.2014, to take necessary action pursuant to cancellation of SC certificates, the permit issued to Munish Malik was not cancelled; and sometime later this Court, vide order dated 07.08.2014, granted interim stay against it in the aforementioned connected petition. Nonetheless, the impugned order has been passed on the assumed premise that the original permit in favour of Munish Malik is invalid, as apparent from the observation therein – *‘the renewal of the permit which was originally invalid also becomes void and needs to be set aside’*. This, in fact, is not so; the permit has not been declared invalid, nor cancelled. Rather, the validity of permit stands affirmed by the Tribunal by dismissing the appeal against it filed by the third respondent vide order dated 05.03.2002, which remains unimpeached. Therefore, the very substratum of passing the order is not there, making it unsustainable.

8. Irrespective of that fact, it cannot be lost sight of that the permit issued to Munish Malik under the 1939 Act on the basis of his SC status stands transferred to the petitioner, who is not an SC. He sought the transfer in compliance of provisions of the 1988 Act, which was permitted unconditionally way back in 2005 vide order dated 10.01.2005, rejecting the objections by the third respondent. The order attained finality as it was not challenged any further. After the transfer, the petitioner holds it independently in his own right. This transfer would not bind him to the conditions based upon which the permit was initially issued to Munish Malik, for the reason the transfer was not based upon those conditions; had it been so, the permit would not have been transferred as the petitioner was not from a Scheduled Caste. And the 1988 Act does not provide for any reservation. Consequently, after the transfer of permit, it would remain valid



subject to the conditions incorporated in that Act, and it is not the petitioner's case that any of those conditions has been violated. Further, it was renewed by the RTA for a period of five years, vide order dated 28.06.2012, though conditionally. The condition statedly agreed to by the petitioner at the time of renewal of the permit, *'that the decision of the Hon'ble Civil Court and High Court regarding status of Scheduled Caste of Mr. Munish Malik S/o L.R. Malik (initial permit holder) shall be applicable to the present permit holder'*, would also not afford a justifiable ground to sustain the impugned order. It is in derogation of provisions of the 1988 Act, which do not provide for any reservation for allotment of permits, as already observed. Also, no such condition was incorporated in the order permitting the transfer in the petitioner's favour, dated 10.01.2005. When the transfer of permit was unconditional without any reference to the SC status of the original permit holder, its renewal could not have been dependent upon that status of his. Additionally, it is the petitioner's pleaded case that he was forced to agree to the said condition; specific averments to that effect have been made in paragraph 15 of the petition - that the statement had to be made since the RTA who allowed the renewal of permit wanted the petitioner to do so. This has not been specifically denied by the RTA in its reply filed by way of affidavit, dated 23.04.2014. Resultantly, the condition agreed to under duress, loses significance.

8.1. The contention by Mr. Mahajan that conditions under the 1939 Act would apply even after transfer of permit under the 1988 Act, is based on Section 217 (2)(b) of the latter, which reads as under:

217. Repeal and savings.—(1) The Motor Vehicles Act, 1939 (4 of 1939) and any law corresponding to that Act in force in any State immediately before the commencement of this Act in



that State (hereafter in this section referred to as the repealed enactments) are hereby repealed.

(2) Notwithstanding the repeal by sub-section (1) of the repealed enactments.—

(a) xxx xxx

(b) any certificate of fitness or registration or licence or permit issued or granted under the repealed enactments shall continue to have effect after such commencement under the same conditions and for the same period as if this Act had not been passed;

(c) to (f) xxx xxx

Apparently, the provision provides that any permit issued under the repealed/1939 Act shall continue to have effect after commencement of the 1988 Act *under the same conditions* and for the same period. Meaning thereby, the permit issued to Munish Malik continued even after enforcement of the new enactment under the conditions it was originally issued to him. However, this would not be the case after its transfer to the petitioner which was as per provisions of the 1988 Act and effectively freed the permit of its past shackles under the 1939 Act. Also, the order of unconditional transfer as such, dated 10.01.2005, remained unchallenged and was duly acted upon. Accordingly, there is no merit in the submission that the conditions whereunder the permit was initially issued, which were applicable as per provisions of the 1939 Act, would *ipso facto* apply to the transferred permit as well, despite the transfer being under the new enactment. The provision of clause (b) to sub-section 2 of Section 217 cannot be read to mean thus.

9. There is another reason the impugned order dated 30.01.2014 passed by the Tribunal cannot be sustained. Concededly, the challenge by the third respondent to issuance of permit to Munish Malik failed, as his appeal



was dismissed by the Tribunal on 05.03.2002. The order is final. He later objected to the transfer of permit to the petitioner as well. Overruling the objection, the transfer was approved by the RTA on 10.01.2005, and the order remained unquestioned. The permit was thereafter renewed for five years on 28.06.2012. Without considering these vital facts germane to the issue raised before the Tribunal, it cancelled the renewal of permit to the petitioner. And the primary ground of cancellation is that the SC certificates issued to the original permit holder/Munish Malik have been found false. This person has no concern with the permit in question after its transfer under the 1988 Act, nor would he be affected by its cancellation in any manner. Therefore, this Court finds no justification to make the petitioner suffer for the acts or omissions of the original holder of permit, especially when validity of the initial allotment of permit in 1988, as also its transfer in 2005, remain unimpeached.

9.1. Mr. Mahajan, however, argued that the petitioner could still not be allowed to hold the permit because he was a beneficiary of fraud. And in terms of law laid down in *SREI Equipment Finance Limited case ibid.*, fraud renders all subsequent acts *non est*; it hold as under:

21. The statutory authority while cancelling the registration certificate of the vehicle issued by the Regional Transport Office, Basti in Form 23 has recorded his conclusion that entry of the appellant as a person in whose favour the vehicle was hypothecated, which was there in the original registration certificate has been fraudulently deleted. In consequence of above, all subsequent acts including the registration certificate issued in the name of Respondent 1 by the Regional Transport Office, Sitapur became non est. Respondent 1 although claimed that he is a bona fide purchaser but the fact remains that he is beneficiary of fraud.



Evidently, the Court has held that statutory authority cancelling the registration certificate of the vehicle had recorded a conclusion that entry in question had been fraudulently deleted. This finding of fraud committed in deletion of the entry was the basis to hold that all subsequent acts would also become *non est*. In the instant case, however, there is no finding of any fraud having been committed. None of the essential ingredients of fraud has been established against the original permit holder. In fact, the order passed by the Scrutiny Committee is non-speaking, bereft of any reason at all. And there cannot be any assumption of fraud having been committed, nor can there be any adverse consequence on the subsequent transfer or renewal of permit to the petitioner based upon such assumption. Still further, the petitioner is a *bona fide* purchaser/transferee of the permit. He is not accused of commission of any fraud in issuance of permit to Munish Malik in 1988, nor is it a case that the subsequent transfer of permit in his name was a result of any wrongdoing. Also, the permit is being used by him for over twenty years now, without any complaint. The argument is therefore misconceived, and stands rejected

10. In view of the discussion, the petition is allowed and the impugned order, dated 30.01.2014, is hereby set aside. The respondents are directed to consider further renewal of permit to the petitioner in accordance with law, uninfluenced by the cancellation of SC certificates issued to the original permit holder.

11. Pending miscellaneous application(s), if any, also stand(s) disposed of.

(TRIBHUVAN DAHIYA)
JUDGE

04.08.2026
Maninder

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No