

Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			WPMS No.1596 of 2023 <u>Hon'ble Rakesh Thapliyal, J.</u> 1. Mr. Amar Murti Shukla, learned counsel, along with Mr. Anand Singh, learned counsel for the petitioner. 2. Mr. Jagdeesh Singh Bisht, learned Standing Counsel for the State of Uttarakhand. 3. Mr. Jitendra Chaudhary, learned counsel for respondent no.3. 4. By means of the instant petition, the petitioner is praying for the following reliefs:- <i>“a). Issue a writ order or direction in the nature of Certiorari quashing the impugned notification dated 27.03.2023 (Annexure-3) issued by respondent no.1.</i> <i>b). Issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.</i> <i>c). Award cost of the petition.”</i> 5. The Annexure No.3, which is the impugned notification, is only a proposed modification, wherein, the objections have been invited. This impugned notification further stipulates that the date, time and place will be intimidated separately. This notification was stayed by this Court on 06.06.2023 after taking into consideration the mandate of Section 102 of the Act. 6. On the day when this proposed notification was stayed, this Court takes into consideration the statement, as given by the State Counsel that the date and place has subsequently been notified by the virtue of an Office Memorandum. The Court was of the view that whether the

			date and place, notified by the subsequent other communications, meet the requirements, as given in Section 102 of the Act. Section 102 of the Act is being extracted as hereinbelow:- “102. Cancellation or modification of scheme.”(1) <i>The State Government may, at any time, if it considers necessary, in the public interest so to do, modify any approved scheme after giving-</i> <i>(i) the State transport undertaking; and</i> <i>(ii) any other person who, in the opinion of the State Government, is likely to be affected by the proposed modification.</i> <i>an opportunity of being heard in respect of the proposed modifications.</i> <i>(2) The State Government shall publish any modification proposed under sub-section (1) in the Official Gazette and in one of the newspapers in the regional languages circulating in the area in which it is proposed to be covered by such modification, together with the date, not being less than thirty days from such publication in the Official Gazette, and the time and place at which any representation received in this behalf will be heard by the State Government.”</i> 7. Sub Section 2 of Section 102 of the Act clearly provides that the State Government shall publish any modification proposed under sub-section (1) in the Official Gazette and in one of the newspapers in the regional languages circulating in the area in which it is proposed to be covered by such modification, together with the date, not
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			being less than thirty days from such publication in the Official Gazette, and the time and place at which any representation received in this behalf will be heard by the State Government. 8. The mandate of Sub-Section 2 of Section 102 of the Act is very clear, which is evident from the impugned notification, which clearly provides that any person may file objections within 30 days from the date of publication of the proposed notification in the Gazette. 9. Clause 3 of the impugned notification further provides that the date, time and place will be intimated subsequently to the petitioner. 10. As it appears from the proposed modification that the objections were invited and the time is also stipulated therein that the objections may be submitted within 30 days from the date of its publication and that condition is clearly mentioned in the impugned notification. 11. So far as the date, time and place for hearing the objections are concerned, in this impugned notification, it is clearly mentioned that it will be communicated later on, and once it is mentioned that the date, time and place will be communicated later on is sufficient to fulfill the mandate of Section 102 (2) of the Motor Vehicle Act. 12. If we further scrutinize Section 102(2) of the Act, the mandate of this provision is that before finalizing the scheme, the objections should be considered, and in the impugned proposed notification, it is clearly mentioned that objections will be furnished within 30 days, and so far as the date, time and place is concerned, this is only for deciding the objections. 13. Merely because the date, time and place is not mentioned in the proposed notification, it does not mean that the mandate of Section 102 of the Act has not
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			been fulfilled. In the impugned notification, there is reference of date, time and place with this stipulation that the same will be notified later. Therefore, this Court is of the view that the impugned notification meets all requirements of Section 102 of the Act. 14. Apart from this, by issuing this proposed notification, the petitioner is not prejudice at all. He still has a right to file objections and simultaneously, the respondent-authorities are also under legal obligation to decide those objections. In view of this, the petition is thoroughly misconceived and is a premature petition, and only because of technical objection, this petition has been filed by the petitioner, who is a private existing operator and the notification was stayed by this Court on 06.06.2023. Therefore, this Court is of the view that this petition deserves to be dismissed with exemplary cost of Rs. 1 Lakh on the petitioner. 15. Learned counsel for the petitioner lastly submits that the cost may not be imposed. 16. On his request, the order imposing the cost is recalled. 17. Thus, the petition, being devoid of merit, is dismissed. No order as to cost. (Rakesh Thapliyal, J.) 28.12.2023 Reena
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