

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE  
AND  
THE HON'BLE SRI JUSTICE S.V. BHATT**

**W.A.No.725 OF 2006**

**PC:** *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard learned Government Pleader for Transport for appellants. None appears for respondents.

The writ appeal is from the interim order dated 25.04.2006 in W.P.M.P.No.9757 of 2006 in W.P.No.7618 of 2006. The interim order reads as follows:

**“A detailed counter affidavit has been filed on behalf of the respondents.**

Having heard the learned counsel for both the parties, prima facie, I am of the opinion that the impugned G.O.Ms.No.38 dated. 04-03-2006 as well as the consequential circular dated 10-03-2006 issued by the second respondent are not in conformity with the ratio laid down by the Supreme Court in *Paramjit Bhasin and others v. Union of India and others 2005(9) Scale*. The relevant portion from the decision of the Supreme Court may be extracted here under:

“It is indisputable that the power of compounding vests with the State Government, but the notification issued in that regard cannot authorize continuation of the offence which is permitted to be compounded by payments of the amounts fixed. If permitted to be continued, it would amount to fresh commission of the offence for which the compounding was done.”

It appears to me that the above said observations made by the Supreme Court are to the effect that the excess load detected in the vehicles needs to be off loaded before allowing overloaded vehicle to proceed further, but not to make overloading of goods vehicles non-compoundable.

Moreover, by virtue of the impugned G.O.Ms.No.38 dated. 04-03-2006 and the consequential circular, the offences under Section 194(1) of the Motor Vehicles Act, 1988 (for short 'the Act') have been rendered non-compoundable thereby depriving the petitioners the benefit conferred under Section 200 of the Act.

Hence, there shall be interim suspension as prayed for. However, it is made clear that this shall not preclude the respondents to take the necessary steps to off load the excess load before allowing the overloaded Vehicles to proceed further.

Post the writ petition for final hearing on 26-06-2006 subject to part heard.”

The appeal was listed for admission on 29.06.2006 and at the request of Government Pleader appearing for appellants, the appeal was adjourned. Thereafter, steps were not taken to get the appeal posted on board or obtained appropriate orders from this Court. At the time of hearing, it is brought to our notice that writ petition is still pending. Without expressing any view on the grounds urged in the writ appeal against the order impugned herein, the writ appeal is dismissed, leaving all the contentions of parties open.

We request the learned Judge before whom the writ petition is posted to consider hearing of the writ petition expeditiously and dispose of the writ petition.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

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**DILIP B. BHOSALE, ACJ**

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**S.V.BHATT, J**

Date: 29.12.2015  
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