

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 7820 of 1993

DATE OF DECISION: 13.05.2015

M/s Dera Baba Nanak Bus Service Regd. BatalaPetitioner

Versus

The State Transport Commissioner, Punjab & Anr.Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present:- Mr. Arun Gosain, Advocate
for the petitioner.

Mr. Anil Sharma, Addl. A.G., Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of order dated 16.6.1993.

Briefly, the facts of the case are that the petitioner-Company was engaged in the business of providing stage carriage services to the travelling public on Batala-Dera Baba Nanak Route, on the basis of regular stage carriage permit issued by the competent authority. As per terms and conditions of the permit, which was valid upto May 31, 1996, the petitioner was to operate three return trips on the said route. A complaint was made against the petitioner-company in the year 1984 alleging therein that the petitioner-Company had been operating two buses with one registration mark PBN 5096 and was evading road tax and passenger tax in connivance with the officers of the Transport Department. On receipt of the

complaint, the State Transport Commissioner, Punjab ordered the enquiry with regard to the allegations to be conducted by the Joint State Transport Commissioner, Punjab. After conducting the inquiry, the Joint State Transport Commissioner, Punjab submitted its report on 28.1.1985, wherein, it was mentioned that the allegations made in the complaint could not be substantiated and there was no possibility of connivance of the officers of the Department and it could not be proved that two buses were being operated with one registration mark i.e. PBN-5096. However, it was pointed out that as per record of the SDO (Civil), the partner of the firm transferred its bus with registration mark PUG 3996 on 16.3.1984 but the same was being operated by the petitioner-Company. After having report from the Inquiry Officer, State Transport Commissioner, Punjab issued notice dated 16.4.1985 under Section 60 of Motor Vehicles Act, 1939 (hereinafter referred to as 'the Act') on the ground that even after transfer of bus with registration mark PUG 3996, the petitioner-Company was found operating a bus with registration mark PUG 3996. In response thereto, the representative of the firm appeared before the State Transport Commissioner and submitted that bus No. PUG-3996 was not transferred to anyone and the same is being operated by the firm on its route. In order to curb the suspicion raised in the inquiry report dated 28.1.1985, the State Transport Commissioner, Punjab directed Secretary, Regional Transport Authority, Jalandhar to conduct a detailed inquiry, who vide its report has submitted that the suspicion raised in the first inquiry report was baseless. Thereafter, respondent No.1 appointed District Transport Officer, Gurdaspur to hold third inquiry, wherein, it was found that the petitioner-Company had transferred its bus with same number and permit and more than one buses was being plied by the petitioner-Company.

Learned counsel for the petitioner submits that the allegations

made in the complaint were found to be false by the Joint State Transport Commissioner, Punjab and Secretary, Regional Transport Authority, Jalandhar. He further submits that there was no reason to conduct third inquiry on the same set of allegations when on earlier two occasions, the allegations were found to be false. Learned counsel further submits that at the time of conducting third inquiry, no notice was issued and the petitioner-firm was not associated. The third inquiry was conducted with malafide intention to cause loss to the petitioner-firm as the District Transport Officer, who conducted the inquiry was inimical towards the petitioner as a criminal case was filed against him. Learned counsel also submits that question of evasion of tax could not be there as the vehicle in dispute was sold to scrap dealer and its registration was also cancelled. It is also the contention of learned counsel that respondent No.2 has not even cared to verify the engine and chasis number of the vehicle and without verifying the facts, the inquiry was conducted against the petitioner-firm.

Learned counsel for the respondent-State submits that there is no reason to find fault with the inquiry as it was based on facts. The petitioner-Company was operating two buses with one registration mark i.e. PUG 3996, which was transferred from the name of the petitioner-Company to one Avinash Kumar and the second bus with the same registration mark was found to be plying at Bus Stand, Batala by the then Joint Provincial Transport Controller, Punjab. The transaction of transfer of Bus No. PUG-3996 had taken place on submission of an application by said Avinash Kumar on the basis of two affidavits filed on 16.3.1984 i.e. one by Sh. Ram Labhaya, Managing Partner of the petitioner-company and other by Sh. Avinash Kumar. Both the persons who filed their respective affidavits were also identified.

Heard the arguments advanced by learned counsel for the

petitioner as well as State and have also gone through the documents available on the file.

Undisputedly, a complaint was made against the petitioner-firm which was inquired into. It has come in the inquiry that the petitioner-company was in possession of two buses and the same were being plied with one registration mark i.e. PUG-3996, whereas, one bus was already sold on 16.3.1984. The person to whom the bus was sold has also submitted an affidavit in this regard. Not only an affidavit was filed by the person to whom the bus was transferred but he has also admitted regarding transfer of ownership of the bus. As per provisions of Section 86 (1) of the Act, the permit can be cancelled in case there is a breach of conditions specified in Section 84 of the Act or the holder of the permit uses, causes or allows the vehicle to be used in any manner other than authorized by the competent authority. The impugned order passed by respondent No.1 was in accordance with provisions of Section 86 (1) of the Act.

In view of the findings recorded by the inquiry officer in its report and also the fact that transfer of the vehicle was proved not only on the basis of affidavit but the same has been verified by the person to whom the bus was transferred, there is no reason to differ with the findings of the inquiry Officer as the impugned order has been passed on its basis only. Accordingly, there is no merit in the contentions raised by learned counsel for the petitioner and the petition being devoid of any merit is hereby dismissed.

May 13, 2015
pooja

(DAYA CHAUDHARY)
JUDGE