

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 21844 of 2012

Date of Decision : November 16, 2015

Laddi Bus Service Regd., Mansa Petitioner

vs.

State Transport Appellate Tribunal
and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. P. S. Bawa, Advocate
for the petitioner.

Mr. Ranbir Pathania, DAG, Punjab.

Mr. Anupam Singla, Advocate
for respondent no. 3.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner challenges the order dated 26.12.2008, passed by the State Transport Commissioner, Punjab and the order dated 18.09.2012, passed by the State Transport Appellate Tribunal, denying him extension in the already permitted route.

A perusal of the orders impugned by the petitioner shows that the petitioner's application for grant of extension in the already permitted

route has been denied on the ground that the extended route sought for by the petitioner falls on the monopoly route of State Transport Undertaking and exceeds the permissible limit falling to the share of the private transporters like the petitioner. The other ground, on which the application of the petitioner has been denied, is that the public at large was being adequately served on the route in question as already more than 124 bus services were available there.

There is no denial by the petitioner that his case was to be considered as per Clause (4) of the Scheme dated 09.08.1990, read with the modification to the same dated 21.10.1997, the relevant portion of which is reproduced below :-

“(4) All future operations on monopoly route shall be operated by the State Transport Undertaking.”

Provided that a Private Operator may be allowed to operate on a portion of twenty per cent of the monopoly route or up to the distance of fifteen kilometers of the said route whichever is less, where it is necessary or is in public interest to do so.....”

From a perusal of the above quoted portion of the Scheme, it is clear that the private operators can be granted permission to operate on a

monopoly route up to the distance of fifteen kilometers or 20% of the monopoly route, whichever is less. It is not disputed that before the petitioner had moved the present application seeking extension in the already permitted route, he had already been granted permission to operate on the monopoly route for 57 kilometers.

The petitioner was, thus, already operating beyond the prescribed kilometers in the Scheme.

The petitioner's request for further extension on the monopoly route being contrary to the provision of the Scheme, as quoted above, was, thus, rightly rejected through the orders under challenge. In this regard, the following observations of a Division Bench of this Court in **C. W. P. No. 6258 of 2006 – The Bir Bus Service Regd., Patiala vs. State Transport Appellate Tribunal, Punjab and others**, decided on **25.04.2006**, can aptly be referred to :-

“Having considered the argument of learned senior counsel for the petitioner we find it difficult to agree with the same. Both the first and the second provisos have to be considered harmoniously. While the second proviso saves the operation of existing operator on monopoly route, the first proviso provides the maximum permissible operation by the

private operator on a monopoly route. A private operator who is operating on a monopoly route and whose operations are saved by the second proviso can only claim the benefit of the first proviso if his existing route is less than 15 Kms. or twenty per cent of the monopoly route whichever is less. An operator who is already operating beyond the permissible limits in the first proviso by virtue of the privilege granted by the second proviso, cannot claim the benefit of second proviso beyond the permissible limits under the first proviso. We agree that the reasoning given by the Tribunal that an existing private permit holder cannot be allowed variation in such a way so as to exceed the maximum permissible limit of operation on a monopoly route by ignoring the earlier mileage on the monopoly route already being enjoyed by him. As the facts would show the petitioner is already operating on 24 Kms. on the monopoly route being Patiala-Bathinda. Thus, further

extension cannot be granted to him on account of the rigors of the first proviso. Therefore, we are unable to accept the argument advanced by the learned senior counsel.

In view of the above, we find that the view taken by the Tribunal is justified and legal. The impugned order warrants no interference. Hence, this writ petition is dismissed in limine.”

Counsel for the petitioner states that several other persons have been granted permits to operate on monopoly routes beyond the permissible 15 kilometers and thus, claimed parity with them. I am afraid that no parity can be claimed qua a wrong and on this principle alone, the argument raised on behalf of the petitioner needs to be rejected.

In view of the above, finding no merit, the present petition is ordered to be dismissed.

(DEEPAK SIBAL)
JUDGE

November 16, 2015

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