

LPA No.567 of 2012

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No.567 of 2012

Date of Decision: January 23, 2015

Amloh Bus Service (Regd.)

...Appellant

Versus

The State Transport Appellate Tribunal & others

...Respondents

CORAM: HON'BLE MR. JUSTICE S. J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Pawan Kumar Mutneja, Advocate
for the appellant.

Mr. Vinod S. Bhardwaj, Additional Advocate General, Punjab.

Mr. Sandeep Khunger, Advocate
for respondents Nos.4 and 5

S. J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral):

Admitted.

2. Heard finally.

3. The appellant has challenged the order of the learned Single Judge, dismissing the petition challenging the order passed by the State Transport Appellate Tribunal which upheld the order of the State Transport Commissioner rejecting his application for increasing the bus trips on the Jalandhar-Patiala route. The appellant was granted one trip while he had requested for three.

4 The orders impugned in the writ petition and in this appeal have

LPA No.567 of 2012

proceeded on a factually incorrect basis. They have proceeded on the basis that the Survey Report (Anneuxre P-1) is against the grant of the appellant's request. The Survey Report, in fact, entirely supports the appellant's request for the additional trips but only to the extent of two trips. The State Transport Commissioner, in fact, recorded in his order that the Survey Report is of paramount consideration in such cases. He, however, not only misinterpreted but also misread the Survey Report. The relevant recommendations in the Survey Report are as under:-

- | | |
|----|---|
| 10 | Details of number of bus service available to the traveling public
(1) on proposed curtailment portion
(2) On proposed Sufficient services are operating on the diversion portion of the route whole of the route and sufficient buses are
(3) On proposed extension operating on the portion of the route in an overlapping manner. |
| 11 | General impression regarding It has been observed that at present adequacy or otherwise of sufficient number of bus services are already services. operating for Patiala from Jalandhar. Due to all round development in the State of Punjab there is substantial growth in the rush of passengers on the proposed route and if the increase in trip if allowed would serve the better services to the traveling public. On the other hand if the increase in trip is allowed in favour of the company then it would also help curb the illegal operation on the route in question. |
| 12 | XXXXXX XXXX |
| 13 | Economic viability of the route. The proposed increase in trips if allowed would help to make the existing route as economically viable and serve the interest of the traveling public. |
| 14 | Recommendations. In view of the position explained above the request of the applicant company for grant of proposed increase in trips on the route from one to two daily against two Stage Carriage Permits justified and the same is recommended in the public interest. |

5 A plain reading of these clauses makes it clear that the Surveyor has, in fact, recommended the grant of the appellant's request to the extent of

LPA No.567 of 2012

two trips despite the finding that sufficient services are operating on the route. The report has given cogent reason for the same. For instance, it is observed that due to the development in the State of Punjab, there is increase in the passengers on the proposed route and if the additional trips are allowed, it would be in the interest of traveling public and it would also help curb the illegal operation on the route in question. It is further observed that the existing route would be economically viable and serve the interest of the traveling public. The recommendations expressly state that the request of the appellant to the extent of an additional trip is in public interest.

6. Despite these clear findings, the State Transport Commissioner after observing that the Survey Report is of paramount consideration held that as per the Survey Report, no public interest would be served and the request of the appellant had not been found to be in public interest by the Surveying Officer. Thus, the order of the State Transport Commissioner was based on an erroneous finding of fact on crucial aspects.

7 This error was not even noticed in the order of the Appellate Authority. The learned Single Judge also quoted the paragraph of the State Transport Commissioner which contains there fundamentally incorrect findings. Unfortunately, learned Judge's attention was not invited to the inconsistent finding between the Survey Report and of the State Transport Commissioner.

8 The orders of the State Transport Commissioner and of the State Transport Appellate Tribunal are set aside. The appeal is allowed. However, the matter is remanded to the State Transport Appellate Tribunal to take fresh

LPA No.567 of 2012

decision after taking into consideration the Survey Report. The State Transport Appellate Tribunal shall decide the appeal afresh after affording the appellant an opportunity of being heard and decide the same on or before 30.04.2015. It will be open to the State Transport Appellate Tribunal to invite a fresh Survey Report, if necessary.

No order as to costs.

(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE

January 23, 2015
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE