

CWP No.17076 of 2010

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.17076 of 2010
Date of decision:11.02.2016**

Chandra Shubh Yatra Company Limited ...Petitioner

Versus

Union Territory, Chandigarh and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Puneet Bali, Senior Advocate, with
Mr. Arun Gupta, Advocate, for the petitioner.

Mr. Vishal Sodhi, Advocate,
for the respondents.

Rakesh Kumar Jain, J.

The petitioner has prayed for the issuance of a writ in the nature of *certiorari* for setting aside the orders passed by the Challaning Officer of the State Transport Authority, U.T., Chandigarh dated 16.08.2010, by which buses of the petitioners were challaned and illegally impounded and for the issuance of a direction to respondent No.2 to refund the amount of challan/penalty imposed upon the petitioner in terms of the challan/order dated 16.08.2010 and also to set aside the challan receipts dated 17.08.2010 by which penalty has been imposed.

As per the case set up by the petitioner, the buses of the petitioner-company, having All India Tourist Permits and other contract

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carriages, are plying throughout the territory of India with operations through the States which are mentioned in each All India Tourist Permit. It is alleged that on 07.04.2010, the Motor Vehicle Inspector, State Transport Authority, Chandigarh, impounded the vehicles of the petitioner despite the order passed in CWP No.1032 of 2000 decided on 27.10.2006. It is further alleged that the vehicles of the petitioner were challaned on 16.08.2010 and penalty was imposed on 17.08.2010, which is totally illegal and violates the provisions of Sections 207 and 213 of the Motor Vehicles Act, 1988 (hereinafter referred to as the "Act") as well as Rule 130 of the Motor Vehicles Rules, 1989.

However, in the reply, it is alleged that the buses being plied by the petitioner were impounded for contravention of Sections 3, 4, 66(1) and 39 of the Act i.e. without any documents i.e. valid driving license, without registration certificate, without valid permit for the area of U.T. Chandigarh as the Challaning Officer, who was empowered under Section 213 of the Act, intercepted the buses of the petitioner and since the driver(s) or the attendant(s) of those buses failed to produce any of the documents i.e. driving license, registration certificate and valid permit at the spot, therefore, the buses were challaned and impounded in exercise of powers conferred under Section 207 of the Act and the driver/attendant of the said buses duly acknowledged that fact by appending their signatures in Challan Form that they were not in possession of any valid document to ply the said buses. It was also found that the said vehicles were involved in serious offences by playing the same as 'Stage Carriage' as they were standing to

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pick up passengers from/around ISBT, Sector-43, Chandigarh in gross violation of the condition of their All India Tourist/Contract Carriage Permit. It is further averred that the answering respondent, in exercise of their powers under Section 207 of the Act, have already framed rules by amending Rule 239 of the Chandigarh Motor Vehicles Rules, 1990 (hereinafter referred to as the "Rules") vide notification dated 25.11.2000, whereby detailed procedure has been issued/prescribed for seizure and detention of the motor vehicle in case the same is being used in contravention of provisions of the Act. Under this notification, the persons appointed as Officer under Section 213 read with Rule 238 of the Rules shall have the powers to seize and detain the vehicles if he has reason to believe that the motor vehicle has been or is being used in contravention of provisions of Section 3, 4, 39 or without the permit required under Section 66(1) or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used. The relevant amendment in the Rules, is as under:-

"3. In the Chandigarh Motor Vehicle Rules, 1990 (hereinafter referred to as the said rules), in rule 239, after sub-rule (3), the following sub-rules shall be added, namely:-

(4) the persons appointed as Officers under Section 213 and specified as such in rule 238 shall have powers, if they have reasons to believe that a motor vehicle has been or is being used in contravention of the provisions of Section 3 or Section 4 or Section 39 or without the permit required by sub-section (1) of Section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicles may be used, to seize and detain the vehicle, and shall keep the same in safe custody of the nearest police station or in the premises of a Government Department against a proper receipt to

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be given by in Form M.O.S.S. to the owner or incharge of the vehicle from whose custody the vehicle was seized and detained.

(5) The offices in charge of the police station or of a Government, shall ensure that the vehicle in question is kept in safe custody along with the goods contained therein, if any, at the time of keeping the same in his custody.

(6) The vehicle may be got released by concerned person within a period of ten days from the date of the seizure or detention of the vehicle, as the case may be.

(7) In case the vehicle is not got released within the stipulated period referred to in sub-rule (6) above, then rental charges at the rate of rupees one hundred per day, shall be charged after the expiry of ten days from the date of seizure or detention of the vehicle.

(8) Existing sub-rule (4) shall be renumbered as sub-rule 8.”

Further, the detail of the officers appointed under Rule 238 framed under Section 213 of the Act are also reproduced as under:-

“Rule-238- Powers of officers of Motor Vehicles Department: The officers of the Motor Vehicles Department included in each class under rule 237 shall exercise the powers of the police as noted below against each in respect of the offences under the Act:-

(a) Secretary, State Transport Authority	Powers exercisable by a Superintendent of Police
(b) Registering & Licensing Authority	Powers exercisable by a Superintendent of Police
(c) Assistant Secretary, State Transport Authority	Powers exercisable by a Deputy Superintendent of Police
(d) Motor Vehicles Inspector	Powers exercisable by an Inspector of Police”

It is, thus, alleged that since the Rules have been framed apropos to the order dated 27.10.2006 passed in CWP No.1032 of 2000 and further instructions were also issued for reasonable exercise of the power as conferred under Section 207 of the Act, therefore, there is no error in

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challaning the vehicles of the petitioner.

I have heard learned counsel for the parties and perused the available record from which it is found that the vehicles of the petitioner were challaned because the petitioner was not having requisite documents. The buses were having no permit to operate in the area of U.T., Chandigarh and found waiting for the passengers near Bus Stand Sector-43, Chandigarh to use it as stage carriage. Thus, the required action has been taken by the respondents in accordance with law.

In view of the above, there is no scope for interference in the present petition, which is hereby dismissed, though without any order as to costs.

February 11, 2016
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(Rakesh Kumar Jain)
Judge