

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

**CWP No.21154 of 2015
Decided on :02.08.2016**

The Farmana Co.op. TPT Society Ltd.

... Petitioner

Versus

State Transport Controller and another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Balvir Singh Giri, Advocate
for the petitioner.

Mr. Rohit Arya, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)

The petitioner challenges the letter dated 14.09.2015 (Annexure P-3) issued by respondent No.2, whereby penalty @ Rs.25/- per day on account of late deposit of bus stand/adda fee has been imposed.

Counsel for the petitioner has placed reliance upon the judgment of this Court passed in ***CWP No.16296 of 2012 'The Barwala Janta Cooperative Transport Society Vs. State Transport Controller, Haryana*** and others decided on 11.07.2013 (Annexure P-4) to submit that the issue of the right of the respondents to levy the penalty amount has been held to be un-sustainable.

A perusal of the said judgment would go on to show that dispute was also similar regarding the penalty imposed per day @ Rs.25/-, on account of late deposit. After noticing Rule 192 of the Haryana Motor Vehicles Rules, 1993 and Section 138 of the parent Act refund was ordered. The relevant part of the said order read as under:-

“A bare reading of the statutory provisions referred to by the State counsel would clarify that there is no provision whereby the respondent-authorities/State Authorities would derive authority to have assessed and levied the penalty of Rs.25/- per day on account of the late deposit for Adda Fee. In the absence of any provision, the levy of such penalty/fine cannot sustain. The action of the State Government to such extent is clear

without jurisdiction.

Accordingly, the present writ petition is partly allowed to the extent that the amount that already stands deposited by the petitioner-society towards penalty @ Rs.25/- per day shall be computed and refunded within a period of two months from the date of receipt of the certified copy of this order.

The writ petition is allowed in the aforesaid terms.”

Counsel for the petitioner has also further referred to another bunch of cases, lead case of which was **CWP No.20699 of 2015 'The Kisaan Coop. TPT Society Ltd., Sonapat Vs. State Transport Controller, Haryana and another'** decided on 29.02.2106, in which the same view has been followed.

Counsel for the State is not in a position to distinguish the said judgments.

Accordingly, the present writ petition is allowed and the action of the respondents in imposing the penalty of Rs.25/- per day, on account of late deposit of bus stand/adda fee is quashed.

AUGUST 02, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No