

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

**CWP No.21514 of 2016
Decided on :23.12.2016**

The Sulakhani Cooperative Transport Society Ltd.

... Petitioner

Versus

The Transport Commissioner, Haryana and another

... Respondents

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

Present : Mr. Raj Kaushik, Advocate
for the petitioner.

Mr. Indresh Goel, Addl. AG, Haryana.

G.S. Sandhawalia, J. (Oral)

The petitioner seeks direction for issuance of permit to the petitioner as a consequence to the allotment letter dated 06.06.2014 (Annexure P-2), whereby a letter of intent for the Route No.28 i.e. Narwana to Hissar via Danola, Surewala Chowk, Barwala, Sarad of District Jind was issued to him. The permit was to be issued in due course of time.

It is the case of the petitioner that the outstanding dues had been paid and a request had been made on 07.01.2016 (Annexure P-4/T) for release of permit, which is pending consideration.

It is further submitted that the respondent No.2 vide letter dated 27.07.2016 (Annexure P-7/T) had written to the Transport Commissioner, Haryana-respondent No.1 for clarification whether the permit can be permitted to be lifted under the Stage Carriage Scheme of 2013.

In the response filed by the respondents the stand taken is that on account of the notification of the draft of the Stage Carriage Scheme of

2016, notified on 25.02.2016 (Annexure R-1), the petitioner cannot be permitted under the 2013 Scheme, as the same has been superseded.

The said stance taken is fallacious and cannot be accepted, as admittedly as per the notification dated 25.02.2016, the objections have been invited against the proposals of the scheme, which are to be filed by the persons. However, the final scheme has not been finalized and neither any decision has been taken on the objections. The said notification reads as under:-

“ *HARYANA GOVERNMENT*

TRANSPORT DEPARTMENT

Notification

The 25th February, 2016

No.17/10/2011-3T(II)- Whereas, Haryana Roadways, a State Undertaking is providing transport services on all routes/areas except on certain in intra-State routes in Haryana allotted to private operators under various Schemes made by the Government from time to time and the need for passenger transport services has been increasing constantly;

Now, therefore, in order to bridge the gap between the demand and supply of transport services, the Governor of Haryana is of the opinion that for the purpose of providing an efficient, adequate, economical and properly coordinated road transport service in the State, it is necessary in the public interest that the passenger road transport services provided by the State Transport Undertaking, namely; Haryana Roadways, shall be augmented and continued to be run and operated by the State Transport Undertaking;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 99 of the Motor Vehicles Act, 1988 (Central Act No.59 of 1988), and in suppression of Haryana Government, Transport Department, Notification No.S.O.90/C.A.59/88/S.100/93 dated the 3rd November, 1993,

and Haryana Government, Transport Department, Notification No.17/10/2011-3T(II) dated 12th August 2013, the Governor of Haryana hereby formulates a proposal regarding the following Scheme for information of persons likely to be affected thereby. The proposal of the Scheme shall be taken into consideration after the expiry of a period of thirty days from the date of publication of this notification in the Official Gazette together with any objections/suggestions which may be filed by any person before the Additional Chief Secretary to Government, Haryana, Transport Department, Chandigarh.

DRAFT SCHEME

All the area is exclusively reserved for grant of stage carriage permits to the State Transport Undertakings.

*S.S. Dhillon
Additional Chief Secretary
to Government Haryana
Transport Department”*

The petitioner would thus necessarily be bound as other operators with the introduction of the new scheme, if notified.

In such circumstances, the respondents as such cannot sit back on the request dated 27.07.2016 (Annexure P-7/T). Accordingly, a direction is issued to the respondents to take action on the said representation within four weeks from the receipt of the certified copy of this order.

With the abovesaid observations, the present writ petition stands disposed of.

DECEMBER 23, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE

*Whether speaking/reasoned:
Whether Reportable:*

*Yes/No
Yes/No*