

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

**CWP No.4954 of 2016
Decided on : 18.10.2016**

The Khewara Coop. Transport Society Ltd., Khewara ... Petitioner

Versus

State Transport Controller (Now Director General Transport), Haryana
& another

... Respondents

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

Present : Mr.Ashwani Kumar Bura, Advocate, for the petitioner.

Mr.Rohit Arya, AAG, Haryana.

G.S. Sandhawalia, J. (Oral)

Petitioner seeks quashing of the letter dated 08.11.2007 (Annexure P2) issued by respondent No.1, on the basis of which, penalty @ Rs.25 per day, on account of the late deposit of adda fee, has been levied from June, 2013 to December, 2014. Reliance has been placed upon the judgment dated 11.07.2013, passed in CWP-16296-2012 titled *The Barwala Janta Cooperative Transport Society Vs. State Transport Controller, Haryana* (Annexure P3) to submit that the right of the respondents to levy penalty amount has been held to be unsustainable. Resultantly, the refund of Rs.1,80,200/- which was illegally got deposited from the petitioner-Society on 24.12.2014 (Annexure P5 Colly.) is sought along with interest @ 12% per annum. 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:-

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“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.”

Reliance is also placed upon the orders passed in another bunch of cases, lead case of which was CWP-20699-2015 titled *The Kisaan Coop. TPT Society Ltd., Sonapat Vs. State Transport Controller, Haryana & another*, decided on 29.02.2016, 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 and a direction is issued to the State to refund the above-said amount, which had been deposited on account of the penalty alongwith interest @ 8% per annum, within a period of 2 months from the receipt of the certified copy of this

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order. In case the amount is not refunded within the prescribed period, the interest element will go upto 10% per annum. State shall be at liberty to recover the enhanced amount of the said interest from the concerned official/officer, in the said eventuality.

OCTOBER 18th, 2016

sailesh

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No