

CM Nos.11031, 11032, 10668, 10803,
10865, 10867, 10868, 11028, 11029,
11165-CWP of 2016 in/and
RA-CW-278-2016 in
CWP-9853-2006

Anuj Bus Service
Versus
State of Haryana & Ors.

Present : Mr. DS Patwalia, Senior Advocate with
Mr. Amit Jhanji, Advocate;
Mr. HS Sawhney, Senior Advocate with
Mr. Raj Kaushik, Advocate;
Mr. DS Kamra, Advocate;
Mr. Lekh Raj Sharma, Advocate
for the review-applicant

(1) This review application seeks to recall the order dated 20.12.2012 vide which the review-applicant's writ petition was disposed of in terms of the judgment of even date rendered in the lead case i.e. **M/s. Vijyant Travels & Anr. Vs. State of Punjab & Ors.** Vide the cited judgment, the legality of various Schemes published by the States of Punjab and Haryana in purported exercise of their powers under Section 99 of the Motor Vehicles Act, 1988 were examined and some of such Schemes and/or the offending clauses were struck down. The review has been sought to the extent that vide para 136(vii) & (viii) of the main order, the scheme dated 03.11.1993 formulated by State of Haryana to the extent of its Clause (1) was held to be still 'operative' whereas its Clause (2) was struck down and Clauses (3) & (7) were declared redundant and consequently it was further held that the Stage Carrier Permits issued to private operators under Clause (2) of the said Scheme dated 03.11.1993 are illegal and cannot be validated or renewed under a subsequent Scheme.

(2) We have heard learned counsel for the review-applicant whose primary grievance before the Hon'ble Supreme Court was that this Court examined the validity of the Scheme under which they have been granted licenses, behind their back. The question that arises for consideration in the main case was whether the

Scheme dated 03.11.1993 was to be taken to have been struck down by this Court through judgment dated 11.01.2005 rendered in **CWP No.6163 of 2004 (The Shiv Co-operative Transport Society Ltd. vs. The State Transport Controller, Haryana & Ors.)**? This Court after elaborate discussion and after reproducing the findings returned by this Court in the cited decision, came to a categoric conclusion that the above-stated Scheme stood struck down by necessary implication. The fate of the subsequent Schemes formulated by the State of Haryana was also well explained in para 131 to 133 of the order under review.

(3) Similarly, another Draft Scheme published on 01.10.2012 has been referred to in para 135 of the main order. Thereafter, this Court held as follows:-

“...We are, however, sanguine that the final Scheme shall not defeat the "rights of common man against the lawless instinct of men in power". It is therefore directed that if the State Government decides to finally approve and notify a Scheme under Section 99, it shall have to ensure that each Clause of the Scheme is consistent and in conformity with the law of the land which we have attempted to explain elaborately. It is made clear that irrespective of the tenure or nature mentioned in the permits issued to private operators under Clause (2) of 1993 Scheme or under the 2001 Scheme, all such permits are illegal though in the interest of travelling public it is directed that the same shall be treated as temporary permits till the date of finalization of the proposed Scheme.”

(4) Learned counsel for the review-applicant could not point out any error apparent on the face of the record. The conclusion drawn by this Court in respect of

each and every Scheme are based upon correct appreciation and interpretation of various provisions of the Statute read with binding precedents consisting of a catena of decisions of Hon'ble Supreme court.

(5) No case to review/recall the order dated 20.12.2012 is made out.

(6) Dismissed.

(Surya Kant)
Judge

09.11.2016
vishal shonkar

(Sudip Ahluwalia)
Judge