

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

**(105)**

**CWP-6866-2017**

**Decided on: May 11, 2017.**

**M/s Khatra Bus Service Regd.**

**.... Petitioner**

**Versus**

**Presiding Officer, State Transport Appellate Tribunal, Punjab and anr.**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI**

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

**M.M.S. BEDI, J (ORAL)**

Vide order Annexure P-1 dated 20.07.2009, the State Transport Commissioner, Punjab, Chandigarh exercising the powers of Regional Transport Authorities, Jalandhar, Patiala and Ferozepur had granted two regular stage carriage permit with one return trip daily on Pathannkot-Ludhiana via Mukeria, Dasuya, Bhogpur-Jalandhar-Phagwara-Goraya route in favour of Pepsu Road Transport Corporation Ltd for a period of five years. Order dated 20.07.2009 passed by the said authority was subject matter of the appeal before the State Transport Appellate Tribunal, Punjab Chandigarh in which the Appellate Tribunal arrived at a conclusion that the appeal has rendered infructuous. The operative part of the order dated 17.10.2012 Annexure P-5 reads as follow:

*“2. I have heard the learned counsel for the parties, who have relied upon the Notification of Punjab Govt. dated 20.12.2011 and order of the Hon'ble High Court dated 04.04.2012, passed in CWP No.10032 of 2009 and order dated 28.05.2012, passed in CWP No.10933 of 2011, vide which the bunch of 39-40 CWPs was disposed of with the*

*observation that the Writ Petitions have been rendered infructuous in view of the Notification dated 20.12.2011.*

3. *Notification dated 20.12.2011 is the modification of Notification No.S.O.41/C.A.59/88/100/90 dated 09.08.1990 and its relevant Clause is re-produced as under:-*

*“(8) The existing operations of the stage carriage permits of the State Transport Undertakings and the private operators of the State of Punjab, shall remain unaffected.”*

*The above referred clause saves the existing operations, as on 20.12.2011, of the stage carriage permits, either run by the STUs or by the private operators and is held that the existing operations shall remain unaffected.*

4. *Sh. Simarjot Singh Dhillon, Asst. Adv. Gen. relied upon the law laid down by the Division Bench of the Hon'ble High Court in CWP No.9254 of 1992 vide which their Lordships observed that as to how the application for the grant of permit is to be dealt with is procedural and if procedure is varied during the pendency of such an application, then amended procedure is to be followed. So, after the grant Scheme is modified and existing operations are saved.*

5. *Keeping in view the Notification dated 20.12.2011, vide which the Notification dated 09.08.1990 was modified and then relying upon the order of the Hon'ble High Court dated 04.04.2012, passed in CWP No.10032 of 2009 and order dated 18.05.2012, passed in CWP No.10933 of 2011, vide which the bunch of 40 CWPs, relating to PRTC, Punjab Roadways (Transporters) etc. was disposed of as rendered infructuous. This matter is also covered under the Scheme and the appeal stand rendered infructuous and disposed of. The connected appeal bearing no.102/2011 titled as “Guru Teg Bahadur Coop Transport Society Ltd., Patiala Vs. STC Pb. And others” stand disposed of vide my order dated 11.09.2012 as rendered infructuous. Appeal file be consigned to the record room.”*

The writ petition has been filed in the year 2017 against the above said order of 2012 inter alia on the ground that order dated 17.10.2012 passed by the State Transport Appellate Tribunal, Punjab, is based upon an order Annexure P-4 passed by a Single Bench of the High Court observing that bunch of the few writ petitions pending before the said Court, had been rendered infructuous in view of notification dated 20.12.2012.

The main grievance of the petitioner is that after the order dated 17.10.2012 had been passed by the Presiding Officer of the State Transport Appellate Tribunal, Punjab, another judgment dated 20.12.2012 has come into existence by virtue of which the notification dated 20.12.2011 has been quashed.

In view of above said circumstances, the grievance of the petitioner, at this stage, is that instead of disposing of the appeal of the petitioner as infructuous, the petitioner should have been held entitled to the benefit of the judgment of this Court dated 20.12.2012 by virtue of which the notification dated 20.12.2011 has been set aside holding that the Clause 8 of the notification dated 20.12.2011 was illegal.

After hearing learned counsel for the petitioner, I am of the considered opinion that the petitioner is seeking the review of an order dated 17.10.2012 on the basis of judgment dated 20.12.2012 which came into operation after the passing of the impugned order.

In view of said circumstances, the only remedy available to the petitioner, is to seek enforcement of the legal rights accruing from a subsequent judgment dated 20.12.2012 or approach the Appellate Tribunal for revival of the appeal to be adjudicated upon on the basis of the judgment

of this Court which has come into operation during pendency of the appeal of the petitioner under Section 89 of the Motor Vehicles Act.

In view of above said observations, I do not find any ground to set aside the order Annexure P-5 dated 17.10.2012 dismissing the appeal as having rendered infructuous as the relief claimed is on the basis of a subsequent judgment which has come into operation after passing of the above said order.

Without prejudice to the right of the petitioner to avail other remedy, this petition is dismissed as not maintainable.

**(M.M.S. BEDI)**  
**JUDGE**

**May 11, 2017**  
*harsha*

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/No