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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1481/2017

CHOUDHARY TRANSPORT COMPANY Petitioner
Through: Mr. Shwetank VEDI, Advocate with
Mr. Arvind Kumar, Advocate.

versus

GOVT. OF NCT OF DELHI & ANR Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

ORDER

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20.03.2017

CM Appl. 10836/2017 in W.P.(C) 1481/2017

Present application has been filed seeking recall of the order dated 02nd March, 2017 whereby the counsel for petitioner had withdrawn the present writ petition with liberty to file civil suit for damages in accordance with law. The order dated 02nd March, 2017 is reproduced hereinbelow:-

“After some arguments, learned counsel for petitioner wishes to withdraw the present writ petition with liberty to file civil suit for damages in accordance with law.

With the aforesaid liberty, present writ petition stands disposed of. The rights and contentions of all parties are left open.”

In the present application, it has been averred that neither the petitioner nor the attorney of the petitioner had given any instructions to the

previous counsel to withdraw the present writ petition.

In the opinion of this Court, the aforesaid averment is untenable in law as the Vakalatnama executed by the petitioner in favour of the previous counsel explicitly gives power to the counsel to withdraw or compromise the said case. The relevant portion of the Vakalatnamna empowering the counsel to withdraw the matter is reproduced hereinbelow:-

“To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.”

This Court is of the opinion that the Lawyers are professionals and once they have been engaged they have full authority to take a decision to withdraw the petition.

It is pertinent to mention that the present writ petition had been filed seeking a direction to the respondents to allot alternative route to the Chandni Chowk, Sewa Permit Holders. Alternatively, petitioner had sought a direction to respondent to extend the route as proposed vide letter dated 29th March, 2014.

It had been averred in the petition that vide order passed in W.P.(C) 4572/2007, the Court prohibited plying of cycle rickshaws in the Chandni Chowk area. Pursuant to the aforesaid order, State Transport Authority issued Chandni Chowk Sewa Permit to the petitioner from January, 2008 to 30th January, 2013 and the same was valid upto June, 2017.

However, admittedly, the aforesaid order was set aside by the Supreme Court in SLP No.19960 of 2010 and cycle rickshaws were permitted to operate in Chandni Chowk due to which petitioner was prohibited from plying its mini buses in the said area.

It had been averred in the writ petition that petitioner had earlier filed a writ petition being W.P.(C) 3065/2014 on similar ground whereby vide order dated 16th May, 2014 respondent was directed to decide the petitioner's representation within four weeks.

In pursuance to the order dated 16th May, 2014, respondent vide Minutes of Meeting dated 04th January, 2017 rejected the petitioner's request for alternative route.

Upon a perusal of the paper book, this Court finds that the respondent-State Transport Authority as well as Government of NCT of Delhi had initially itself clarified that in the event, the mini bus scheme did not become operational owing to any order of the Court, they would bear no responsibility or liability.

Since in the present case, it is due to the Supreme Court order that the petitioner was prohibited from plying its mini buses in Chandni Chowk, this Court is of the view that the petitioner is not entitled to any relief in the present petition. Moreover, the permit even if valid would be about to expire in about three months from today.

Consequently, the averments in the present application and the writ petition are not only contrary to facts, but also untenable in law. Accordingly, the same are dismissed.

MANMOHAN, J

MARCH 20, 2017

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