

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.320 OF 2018

Sahir Khan Ustad & Ors. Petitioners.

Versus.

The State of Goa, through its
Chief Secretary & ors. Respondents.

Mr. Byron Rodrigues, Advocate for the Petitioners.

Ms. Purna Bhandari, Additional Government Advocate for the
Respondents.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 31 July 2018.

P.C.:

By this petition, the Petitioners have sought a writ of mandamus to give effect to the Resolution passed on 23 December 2016 by the Road Transport Authority in its meeting. According to the Petitioners, by this Resolution the Authorities had granted transport permits to the Petitioners.

2. It is the case of the Petitioners that the Petitioners had applied for issuance of Contract Carriage Permits for black and yellow taxis in their names at the allotted site at the Konkan Railway

Corporation stand, at Margao. It is their case that in the meeting dated 23 December 2016, the Petitioners were allotted regular contract carriage permits. It is further their case that this decision was thereafter acted upon and the Petitioners, on the directions of the Authorities, purchased new vehicles and invested certain amount. It is also contended that police verification was made on 6 March 2017, however, the permits were not given to them. Hence, the Petitioners have filed this present Petition, seeking to enforce the Resolution.

3. Reply affidavit has been filed by the Assistant Director of Transport. It is stated therein that on 1 February 2018, the Road Transport Authority rescinded the decision taken on 23 December 2016 and even though the Petition is filed on 28 February 2018, this fact has been suppressed from the Petition. It is the stand of the Respondents-Authorities that in the meeting dated 5 August 2016, it was decided that all vacancies for issuance of state carriage permit would be notified on the notice board of the Office of the Deputy Collector, South Goa, inviting applications from interested persons. It is contended that when the meeting was held on 23 December 2016, the process of notifying the vacancies on the notice board was not followed and, therefore, the Petitioners cannot derive any right therefrom.

4. The learned Counsel for the Petitioners has contended

that the permits granted to the Petitioners have been wrongly revoked. This submission is entirely incorrect. The permits were not issued to the Petitioners and it is only after the actual permits are issued to the Petitioners that the question of revocation of the permits would arise.

5. The learned Counsel for the Petitioners then submitted that all the formalities were completed and only ministerial act of issuance of permits had remained and in view of the steps taken by the Respondents-Authorities, the Petitioners were led to believe that the Petitioners would be granted permits. The Petitioners thereafter made substantial investment and, therefore, the principle of promissory estoppel would apply against the Respondents-Authorities.

6. By invoking the general promissory estoppel, what is against public policy cannot be enforced. In the present Petition, the Petitioners have nowhere asserted that there was due publicity given to the fact that permits are to be granted for the vacancies. No such averment is found in the Petition. A categorical assertion has been made in the affidavit of the Respondents that no such publicity was given. In the meeting dated 23 December 2016, the applications of the Petitioners were straightaway granted.

7. Grant of contract carriage permit provides a livelihood for which there is a keen contest amongst the applicants. It is, therefore, necessary that a due publicity is given, applications are received from all eligible applicants, they are duly processed and thereafter permits are granted. If such a procedure of public participation was not followed, the Respondents-Authorities could not have said to have acted arbitrarily to cancel the process and start the process afresh.

8. The manner in which the Petitioners have become chosen for the largesses conferred by the Authorities, the question as to how the Petitioners came in possession of the internal documentation, is important. The Petitioners have annexed a copy of the Resolution, which does not state that it is obtained under the Right to Information Act. How they obtained is not clarified. The learned Counsel for the Petitioners contended that it is so obtained under the Right to Information Act, however, the application has been made as late as on 22 May 2018, after the Petition was filed. The manner in which the applications of the Petitioners have been processed hurriedly and the manner in which the Petitioners have been able to get the internal documentation of the Respondents-Authorities indicates that the Petitioners were favoured by adopting a methodology which is opposed to public interest. When such a situation exists, a writ of mandamus cannot be issued to direct the

Respondents-Authorities to enforce an outcome which was reached wrongly.

9. The contention of the Petitioners that the Respondents told the Petitioners to purchase the vehicles, it is not clear as to why the Respondents would ask the Petitioners to purchase the vehicles.

10. In the Additional Affidavit filed by the Respondents-Authorities, it stated that the Authorities have decided henceforth to advertise the vacancies on the website of the Authority, so as to bring in transparency and clarity. This they must do.

11. It is also informed that the ten vacancies still remain and they will be notified on the website of the Authority, apart from other modes. The Petitioners can, like any other applicant, apply once the vacancies are so notified and their applications will be processed as per law. No other relief can be granted to the Petitioners.

12. The Writ Petition is, accordingly, rejected.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.