

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

CR No.2566 of 2018
Date of decision: 23.05.2018

United India Insurance Company Limited

... Petitioner

Versus

Chetna and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Varun Sharma, Advocate and
Mr. Satpal Dhamija, Advocate for the petitioner.

ARUN PALLI, J. (Oral)

The petitioner is aggrieved by an order dated 24.01.2018, whereby its application under Order 26 Rule 4 of the Code of Civil Procedure, for appointment of a Local Commissioner and record the evidence of the concerned licensing official/clerk of the office of Regional Transport Officer, Motor Vehicles Department, Mokokchung, Nagaland, had since been dismissed.

In brief, the case set out by the petitioner was that an RTI was raised by Mr. Shiv Kumar Saini, Advocate, dated 10.10.2015, in the matter at hands and in response thereto, the licensing authority responded as follows:

“As per our office Record, this Driving licence No.102098/MKG/Prof. is not found on the digitized Smart Card Sarathi as per the Notification order of Transport Commissioner, Nagaland, Driving licence other than Smart

card Sarathi shall be treated as cancelled and Invalid Driving Licence.”

Therefore, it was necessary to record the evidence of the licensing official/clerk.

Before I proceed further, it indeed would be apposite to refer to the observations and the conclusion arrived at by the Tribunal:

“8. After hearing all the sides, I am of the view that the application needs to be dismissed because the letter issued by the licensing authority in response to the RTI raised by Shri Mehtab Singh Poonia, Advocate counsel for driver of offending vehicle has already been exhibited as Ex.R3 on the file and as per the remarks of licensing authority the position is as under:-

“Verified and found genuine as per office record.”

9. It appears that State of Nagaland has issued some notification about the digitalization of their record and the Driving Licenses which are not found on the ditized Smart Card Sarathi have been treated as cancelled and invalid. In this regard other than Smart Card the record has been treated as cancelled. The operating part of letter dated 1.8.14 of Government of Nagaland, Motor Vehicles Department, Office of the Transport Commissioner, Kohima, Nagaland is as under:-

“With a view to authenticate the genuine Driving Licenses it is hereby notified that all Driving License holders having the Booklet or on any manual formats other than Smart Card must report to the office where they have been issued for the purpose of digitizing their data and subsequent issue in Smart Card format. This must be completed before 1st December 2014 after which Driving Licenses other than Smart Card shall be treated as cancelled. This is issued in the interest of public safety and in exercise of the authority conferred under section 19(1)(e) of the M.V. Act, 1988.”

10. In the instant case from the case file, it is revealed that the accident has taken place on 29.11.2013, therefore, we are to see the position as it stood on that day and not what is the position prevailing at present. Moreover, report about authenticity of driving licence is already available in case file, so, findings no merits in the application, the same stands dismissed.”

Ex facie, all what the letter dated 01.08.2014 postulates is; that all the driving license holders having the booklet or any manual formats other than the Smart Card must report to the office where they have been issued for the purpose of digitizing their data and subsequent issue in Smart Card format. Further, the exercise must be completed before 01.12.2014,

whereafter the driving licence other than Smart Card shall be treated as cancelled. What needs to be borne in mind is that the accident had taken place on 29.11.2013, therefore, the question would be; whether the driver of the offending vehicle possessed a valid driving licence on the date of occurrence or not? Significantly, the letter (Ex.R3), issued by the same licensing authority, in response to RTI raised by Shri Mehtab Singh Poonia, counsel for the driver of the offending vehicle (Ex.R3), rather reveals that authorities had verified his licence, which was found to be genuine as per the office record. Further, the RTI was raised by Shri SK Saini, Advocate in the year 2015, and now when the matter was posted for recording of respondents' evidence, the application was moved for appointment of a Commission, which evidently lacked both i.e. merits as also the bonafides.

That being so, no ground is made out to interfere in exercise of revisional jurisdiction under Article 227 of the Constitution of India. The petition is accordingly dismissed.

(Arun Palli)
Judge

23.05.2018
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO