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

LPA No. 1135 of 2018 (O&M)
Date of decision: 31.7.2018

Hardeep **… Appellant**

Versus

The State of Haryana and others **… Respondents**

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Amit Jhanji, Advocate,
for the appellant.

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ARUN PALLI, J.

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 29.11.2017, rendered by the learned Single Judge, vide which the writ petition preferred by the petitioner-appellant, had since been dismissed.

The facts that are required to be noticed are limited.

The State of Haryana framed a Stage Carriage Scheme, 2001 (popularly known as Bid Money Scheme). One Sadhu Ram was allotted a permit to ply on route No. 138 from Barwala to Agroha. The Scheme, referred to above, was challenged in CWP No. 17112 of 2002, and vide order and judgment dated 2.12.2008, this Court set aside the said scheme. And the State was directed to frame a new scheme within three months. Amongst others, Sadhu Ram assailed the decision dated 2.12.2008, vide LPA No. 93 of 2009, which was dismissed, vide order and judgment dated

10.2.2010. Even the SLP preferred against those decisions was dismissed by the Supreme Court, vide order and judgment dated 9.8.2010. In terms of the judgment dated 2.12.2008, rendered by the learned Single Judge, the operators were required to pay the bid money in two installments, and only thereafter, their applications for renewal of the permit could be considered. That being so, Sadhu Ram deposited the requisite amount and his permit was renewed up to 30.6.2009, thereafter up to 25.11.2012 and then up to 25.11.2017, subject to the provisions of the new scheme notified by the State of Haryana on 12.8.2013. Later, Sadhu Ram moved an application before the respondent authorities, seeking exemption as regards payment of road tax, for, his bus was inoperative from 1.2.2004 to 30.9.2005, and pursuant to a letter dated 1.12.2007, issued by SDO (C)-cum-Secretary, RTA, Hisar, its operation was again stopped w.e.f. 5.12.2007 to 31.3.2009. The Secretary, Regional Transport Authority, Hisar (respondent No.3), being satisfied that as vehicle in question was not plied, the period for which the exemption was sought for, vide order dated 8.2.2012, exempted the road tax from 1.4.2004 to 30.9.2005 (6 quarters) and 01.1.2008 to 31.3.2009 (5 quarters). Likewise, vide another order dated 27.9.2013, Sadhu Ram was also granted exemption from payment of bid money, for the same period. An application was moved by the appellant in October, 2015, seeking transfer of the permit, which was transferred in his name on 8.1.2016. Resultantly, even the certificate of registration was issued, vide which the vehicle bearing registration No. HR-39-C-8995, registered in the name of Sadhu Ram, was transferred in the name of the appellant.

In fact, what led the appellant to approach this Court; was a letter dated 29.8.2016, vide which, on a consideration of the matter, the respondent authorities found that under the provisions of Punjab Motor

Vehicle Taxation Rules, 1924, though there was a provision for exemption of road tax, but there was no such provision to exempt the bid money. Accordingly, appellant was required to deposit Rs.8,56,440/-, in this regard, failing which, it was observed that proceedings for cancellation/suspension of permit would be initiated. The appellant challenged the said order, but this Court required him to file a representation before the Secretary, Regional Transport Authority, Hisar, with a direction to respondent No.3 to pass a speaking order thereupon. And, as vide order dated 19.8.2017, the representation of the appellant was rejected, he assailed the orders dated 29.8.2016 and 19.8.2017, vide a writ petition, which has been dismissed vide impugned order and judgment.

Learned counsel for the appellant merely reiterates the submissions that were advanced before the learned Single Judge; it is urged that since the order dated 27.9.2013, vide which the authorities had granted exemption from payment of bid money, was never withdrawn or set aside, the order dated 29.8.2016, requiring the appellant to deposit an amount of Rs.8,56,440/-, was wholly erroneous. Further, the said order was passed after over a decade, and was thus liable to be set aside on this score alone.

We have heard learned counsel for the appellant and perused the records.

A bare analysis of order and judgment dated 2.12.2008 reveals that this Court not only set aside the Stage Carriage Scheme, 2001 (popularly known as Bid Money Scheme), but also declined the claim of the operators that they be absolved of their financial liability to pay the bid amount;

> **"Examples and illustrations can be many. Since the sole criteria is, to give maximum bid, that being contrary to the provisions of the Act, cannot be**

> **upheld. Therefore, allotment of the route permits on the basis of bid alone, being bad, cannot be sustained.**
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> **Therefore, petitioners cannot be permitted to say that having obtained the permits on the basis of bid, simply because the scheme was bad, they are absolved of their responsibility to pay the bid amount. If the argument of the counsel for the petitioners is accepted that State cannot enrich itself by levying bid amount, petitioners can also not enrich themselves by participating in the bidding process and then later to run away from their financial commitment. This view is also supported by a Division Bench judgment of this Court rendered in 'M/s Trishul Industries v. State of Haryana and another' 2006 (4) RCR (Civil) 367. Counsel for the petitioners, in order to support his contention, has relied upon 'Mafatlal Industries Ltd. and others v. Union of India and others' 1997 (5) SCC 536, which, in the facts and circumstances of the present case, is not attracted. Therefore, it is held that the grant of the permits on the basis of bid cannot be sustained. However, those, who participated in the bidding process, cannot escape from paying the amount of bidding, which they are bound to pay."**

As indicated above, the order and judgment dated 2.12.2008 was affirmed not only by the LPA Bench, but also by the Supreme Court and has, thus, attained finality. It is not in dispute that there indeed, was a provision in the Punjab Motor Vehicle Taxation Rules, 1924, to exempt the payment of road tax. But, no such provision existed under which the appellant could be exempted from depositing the bid money. The order dated 27.9.2013, exempting the payment of bid money, was examined and objected to by the Comptroller and Auditor General, Haryana, as to how such an exemption could be granted. Accordingly, the Transport Commissioner, Haryana, vide letter dated 26.8.2016, required the Secretary, Regional Transport Authority, Hisar, to review the matter and recover the outstanding amount from the owner of the vehicle. With the result, notice of demand, dated 29.8.2016, was served upon the appellant to deposit Rs. 8,56,440/-. The positive case set out by the authorities has been that there was no provision either in the Private Bus Service Scheme, 2001 (popularly known as Bid Money Scheme) or in the Punjab Motor Vehicles Taxation Rules, 1924, to exempt payment of bid money. Thus, it was beyond the competence of the authorities to grant any such exemption. Nothing to the contrary was brought to the notice of this Court by the learned counsel for the appellant.

The argument that the order dated 27.9.2013, exempting the appellant from payment of bid money was still operative or existent, lacks conviction and cannot be countenanced. Ex facie, for the matter was reviewed by the authorities, and vide order dated 29.8.2016, the appellant was required to deposit the pending bid money. Thus, as a necessary consequence, the order dated 27.9.2013, paled into insignificance or would be deemed to have been reviewed or recalled. Apparently, the appellant was the beneficiary of a grave illegality, which the authorities rectified. Further, the order granting exemption as regards payment of bid money was passed on 27.9.2013, as soon as the illegality it suffered from was detected during audit, a demand was served upon the appellant to deposit the bid amount, vide order dated 29.8.2016. Thus, the argument that order dated 29.8.2016 was passed after more than a decade is wholly misconceived. Further, the records show that many other operators and vehicle owners were granted similar exemptions, but they too were issued notices requiring them to deposit the bid money. And in response, all the vehicle owners, including the appellant, had deposited the requisite amount. In fact, in the matter at hands, the appellant is litigating with the authorities for refund, which, in our considered opinion, he is not entitled to.

In conspectus of the above, we are dissuaded to interfere with the impugned order and judgment dated 29.11.2017, rendered by the learned Single Judge. Accordingly, the appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

July 31, 2018
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: NO