

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

**CWP No.22884 of 2019
Date of decision: 09.09.2019**

Virender Kumar and others

... Petitioners

Versus

State of Haryana and others

... Respondents

**And connected matters i.e.
CWP-22887-2019 and CWP-22901-2019**

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

Present: Mr. D.S. Patwalia, Senior Advocate, with
Mr. Amit Jhanji, Advocate; and
Mr. Prateek Gupta, Advocate, for the petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

KRISHNA MURARI, C.J. (Oral)

Written statement filed on behalf of respondents No.2, 4 & 6 to
12 in CWP-22887-2019 is taken on record.

With the consent of learned counsel for the parties, all the
petitions have been heard finally and are being disposed of. However, the
facts are being derived from CWP No.22884 of 2019.

This petition under Article 226 of the Constitution of India has
been filed seeking the following main reliefs:

- “i) to call the entire records of the case;**
- ii) issue a writ in the nature of Certiorari for
quashing the Vigilance Inquiry Report dated
26.06.2019 (Annexure P/21) wherein inquiry has been
conducted by the Vigilance Department, Haryana and
it has been concluded that the tender process was
vitiating by collusive bidding, cheating and fraud on**

part of some of the bidders in connivance with the departmental officials, the same be illegal, arbitrary and violative of Article 14, 19 and 21 of the Constitution of India and further violative of their own guidelines dated 28.05.2010 (Annexure P/22) and para 14.5.4 and 14.5.6 of the Haryana PWD Code;

iii) Further issue a writ in the nature of Certiorari for quashing the order of termination dated 23.07.2019 (Annexure P/23 Colly) wherein the respondents have illegally and arbitrarily and contrary to the terms of the lease agreement terminated the lease agreement dated 20.09.2018 being illegal, arbitrary and violative of Article 14, 19 and Article 299 of the Constitution of India and the provisions of the Indian Contract Act;

iv) Further issue writ in the nature of mandamus directing the respondents no.5 and 20 to 31 to pass and register the buses of the petitioners as per the provisions of the Motor Vehicle Act, 1988;

v) Further issue a writ in the nature of Mandamus directing the respondents to implement the Lease Agreements (Annexures P/13 Colly) dated 19-21.09.2018 executed between the Governor of Haryana and the petitioner and the petitioner for the purpose of taking the buses on lease, as the petitioners have purchased the buses and have altered the position and therefore, the respondents are estopped from rescinding the lease agreement dated 19-21.09.2018 in view of Article 299 of the Constitution of India and the provisions of the India Contract Act;

vi) It is further prayed that during the pendency of the present writ petition, the respondents be directed to issue fitness certificates to the buses of the petitioners which were purchased in pursuance to the lease agreements and till date have not been

registered and are standing idle since their purchase i.e. from the last more than 8-9 months and the petitioners are paying lacs of Rupees as installments to the financial institutions without having any fault on their part and further issue those permits for which buses were agreed to be taken on lease temporarily under the provisions of Section 104 of the Motor Vehicle Act 1988 without prejudice to the rights of the petitioner raised in the present writ petition seeking implementation of Lease Agreement entered between the petitioners and the Governor of Haryana;

vii) Further prayed that during the pendency of the present writ petition, the operation of the impugned Vigilance Inquiry Report and the subsequent proceedings arising out of the same may kindly be stayed and further the respondents be directed not to take any coercive action including registration of any FIR against the petitioners in pursuance to the Vigilance Inquiry Report during the pendency of the present writ petition;”

The main grievance of the petitioners is that on the basis of some vigilance inquiry report(s), a concluded contract executed for hiring the buses, for which they took a huge amount loan from various banks, has been cancelled unilaterally vide order dated 23.07.2019 without any notice or opportunity of hearing.

Shri Ankur Mittal, learned Additional Advocate General, Haryana, accepts the factual assertion that order(s) dated 23.07.2019 cancelling the contract was passed without any notice of opportunity of hearing to the petitioners. On the basis of the instructions obtained from learned Advocate General, he further states that the order(s) dated

23.07.2019 shall be withdrawn and fresh order(s) shall be passed after appropriate notice and proper opportunity of hearing to the petitioners.

It is also being made clear that the petitioners shall have opportunity while replying to the notice and participating in the proceedings to raise objection with respect to the vigilance inquiry report dated 26.06.2019 and once that objection is raised, appropriate decision shall be taken by the respondents in respect thereof by passing fresh orders.

In view of the aforesaid facts and circumstances, we dispose of the writ petitions by providing that after recalling/setting aside the order(s) dated 23.07.2019, the State respondent shall issue a notice to the petitioners within a period of one week from today giving appropriate time to file reply(s) and thereafter fix a date for their personal appearance and hearing in the matter and thereafter pass appropriate orders. The entire exercise shall be carried out within a period of six weeks from today. It shall always be open to the petitioners to make an application under Section 104 of the Motor Vehicles Act before the appropriate authority during the pendency of the proceedings and, in case, any such application is made appropriate decision thereon in accordance with law shall be taken within ten days from the date of filing of the same.

With the aforesaid directions and discussions, all the writ petitions are disposed of.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

09.09.2019
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO