

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

CWP No.6315 of 2015

Date of decision: 23.07.2019

Karan Singh

... Petitioner

Versus

The Regional Transport Authority, Gurgaon and another

... Respondents

And connected matters i.e.

**CWP-6392-2015; CWP-6682-2015; CWP-6732-2015; CWP-6733-2015;
and CWP-6821-2015**

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

Present: Mr. Vishal Thakur, Advocate, for
Mr. Keshav Pratap Singh, Advocate
for the petitioner(s) in CWP No.6315 of 2015.
Mr. Rajinder Sharma, Advocate,
for the petitioner(s) in CWP Nos.6392, 6682, 6732, 6733 &
6821 of 2015.
Mr. Ankur Mittal, Additional Advocate General, Haryana.

KRISHNA MURARI, C.J. (Oral)

By means of these petitions, filed under Article 226 of the Constitution of India, challenge has been made to the orders dated 30.05.2013, passed by the Presiding Officer, State Transport Appellate Tribunal, Ambala, as also the minutes of the meeting of Regional Transport Authority, Gurgaon, dated 30.10.2012, whereby the applications made by the petitioners for grant of permanent Stage Carriage Permits on Delhi-Gurgaon inter State route were dismissed.

Learned Additional Advocate General for the State of Haryana at the outset points out, that the same order was challenged by the same

petitioner (in CWP No.6315 of 2015) by way of Civil Writ Petition No.13653 of 2014, which was subsequently dismissed as withdrawn.

In reply, learned counsel for the petitioners submits that the withdrawal was made because subsequent Scheme 2013 was enforced and liberty was given to challenge the said Scheme. In order to appreciate the controversy, the operative part of the order dated 17.07.2014, whereby the earlier writ petition was permitted to be withdrawn, is quoted hereunder:

“At the time of hearing, after making his submissions at length, learned counsel for the petitioner craves indulgence of this Court to withdraw the present writ petition in the light of subsequent 2013 Scheme having been notified for the said route and accordingly challenge the said notification.

Dismissed as withdrawn with liberty aforesaid.”

When confronted with the observation that instead of Scheme 2013 the petitioners have challenged the same orders which were subject matter of challenge in the earlier writ petition, which was got dismissed as withdrawn, learned counsel for the petitioners submits that since the subsequent Scheme 2013 was withdrawn, as such there was no occasion to have challenged the same and, thus, the petitioners challenged the aforesaid two orders. This statement being made is also factually incorrect. A perusal of the record indicates that Scheme 2013 was the subject matter in Civil Writ Petition No.20869 of 2013 along with the bunch of writ petitions, wherein a request made by learned State counsel for re-visiting the Scheme as well as circular dated 28.07.2014 was allowed and, accordingly, the said writ petition was disposed of by a Division Bench of this Court vide order dated 28.10.2014.

Learned State counsel further points out that the issue was re-visited by the State Government and Scheme 2013 was superseded by another Scheme dated 17.02.2017, known as “Stage Carriage Scheme, 2016”.

This being the factual position, once the writ petition filed by the petitioner(s) challenging the aforesaid two orders dated 30.10.2012 and 30.05.2013 was got dismissed as withdrawn, now it is not open for him to challenge the said orders again by filing a fresh writ petition in garb of liberty having been granted while dismissing the earlier writ petition as withdrawn inasmuch as the liberty was in respect of challenge to be made to Scheme 2013 and not to the aforesaid two orders.

In view of above, we are of the considered opinion that these writ petitions being subsequent writ petitions challenging the same order, which was subject matter of challenge in an earlier writ petition, which was got dismissed as withdrawn by the petitioner(s), would not be maintainable and accordingly stand dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

23.07.2019
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO