

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

CWP No. 36747 of 2019
Date of decision: 18.12.2019

Golden Temple Express (Regd.)

....Petitioner(s)

Versus

State Transport Commissioner, Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Raj Kaushik, Advocate, for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order issued by the State Transport Commissioner dated 13.11.2019 (Annexure P-8) exercising the powers of the Regional Transport Commissioner whereby, the implementation of the order dated 11.06.2008 passed in Appeal No. 196 of 2008 has been declined for the reasons mentioned in the impugned order. The argument of the counsel that implementation as such was being sought and the writ petition would be maintainable is not justifiable as specific reasons have been given for declining to implement the order on account of the change of the constitution of the firm. Section 89(1) of the Motor Vehicles Act, 1988 reads thus:-

“89. Appeals.—

(1) Any person—

(a) aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him, or

(b) aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or

(c) aggrieved by the refusal to transfer the permit under section 82, or

(d) aggrieved by the refusal of the State or a Regional Transport Authority to countersign a permit, or by any condition attached to such countersignature, or

(e) aggrieved by the refusal of renewal of a permit, or

(f) aggrieved by the refusal to grant permission under section 83, or

(g) aggrieved by any other order which may be prescribed,

may, within the prescribed time and in the prescribed manner, appeal to the State Transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final.

Keeping in view the above provisions, this Court is of the opinion that there is an alternative and efficacious remedy available to the petitioner to approach the Tribunal and in view of the law laid down in ***United Bank of India vs. Satyawati Tondon, 2010 (8) SCC 110***, the writ petition would not be maintainable.

Accordingly, the writ petition is dismissed as withdrawn with the aforesaid liberty.

Counsel submits that limitation would come in his way as such for filing an appeal.

Keeping in view the fact that the petition was filed on 11.12.2019 and has come up for hearing today, this Court is of the opinion that if the appeal is filed within a period of one week from today, the Tribunal shall hear the appeal on merits.

18.12.2019
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No