IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7741 of 2020
Date of decision: 22.06.2020

Surender Kumar and others

......Petitioners

V/s.

State of Haryana and others

.......Respondents

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Amit Jhanji, Advocate, for the petitioners.
Mr. Anant Kataria, Deputy Advocate General, Haryana.

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Sanjay Kumar, J

Despite a rather long and checkered history, this writ petition is amenable to final disposal at the admission stage.

The petitioners, 7 in number, seek a direction to the transport authorities of the State of Haryana to supply the original Registration Certificates of their buses and to consider their cases for grant of route permits under the Stage Carriage Scheme of 2016. The Registration Certificates are stated to be presently lying in the office of the Additional Deputy Commissioner-cum-Secretary-cum-Member, Regional Transport Authority, Karnal, Haryana.

Shorn of unnecessary detail, the facts germane to this adjudication are as follows: The Government of Haryana published an approved road transport services scheme under Section 100(3) of the Motor Vehicles Act, 1988 (hereinafter, 'the Act of 1988') on 17.02.2017. This scheme came to be known as the Stage Carriage Scheme of 2016. While so, a new draft scheme, framed under Section 99 of the Act of 1988, was notified on 20.06.2017, superseding the earlier Stage Carriage Scheme of 2016. The multifarious litigation arising out of this exercise finally culminated in a batch of appeals before the Supreme Court of India. These appeals were ultimately disposed of by the Supreme Court by order dated 21.01.2020. Perusal thereof reflects that the State of Haryana asserted before the Supreme Court that it had decided to withdraw the draft scheme notified on 20.06.2017 and sought permission to take action either to cancel or modify the Stage Carriage Scheme of 2016 by exercising power under Section 102 of the Act of 1988. While granting permission to the State of Haryana to do so, the Supreme Court permitted the appellants before it and other eligible persons to make applications to the concerned authority, if not made already, for registration and for grant of permits within one week from that day and if so made, the competent authority was directed to consider the same as per law expeditiously and in any case, before 20.03.2020.

It is an admitted fact that the petitioners herein made representations for registration of their buses and for issuance of route permits within the time prescribed. The applications in the prescribed format were however submitted by them much later, i.e., in April, 2020. Cause for the petitioners to approach this Court presently is the alleged inaction of the transport authorities upon their representations/applications.

Mr. Amit Jhanji, learned counsel for the petitioners, would state that the Registration Certificates of the petitioners' buses have already been prepared but the same have not been supplied to them till date. He would state that the said certificates are presently in the custody of the Additional Deputy Commissioner, Regional Transport Authority, Karnal, Haryana. He would further state that other applicants, who had also submitted their applications in April, 2020, were granted route permits but the cases of the petitioners are not being considered.

On the strength of written instructions from the Secretary, Regional Transport Authority, Karnal, Mr. Anant Kataria, learned Deputy Advocate General, Haryana, would inform this Court that the Motor Vehicles Tax payable in relation to the petitioners' buses, except for petitioner No.1, is yet to be paid and that is the reason why their Registration Certificates have been withheld. He would further state that the Stage Carriage Scheme of 2016 is in the process of being modified by the State Government in exercise of power under Section 102 of the Act of 1988 and pending such exercise, the applications submitted within the time prescribed by the Supreme Court were being considered. According to him, applications were filed before the Supreme Court by those who could not submit their applications within the prescribed period of one week and the same are yet to be taken up for consideration. He, however, has no explanation to offer as to why other applications filed in April, 2020, have been considered without any clarification from the Supreme Court and as to how such applicants were granted route permits in May, 2020.

Be that as it may.

The petitioners admittedly submitted their representations for registration of their buses and for route permits within the time prescribed by the Supreme Court, *vide* its order dated 21.01.2020, and it is an admitted fact that the said representations have been acted upon insofar as registration of the buses is concerned. It would therefore not be open to the transport authorities to ignore the petitioners' claim for issuance of route permits by citing the ground of delay. Had it been so, the authorities ought not to have considered even their plea for registration of the buses.

As regards the issue of payment of the Motor Vehicles Tax, Mr. Amit Jhanji, learned counsel, would state that though representations were made by the petitioners in January, 2020, leading to preparation of the Registration Certificates, the buses could not be plied due to non-issuance of such certificates and the requisite route permits. He would place reliance on ***State of Gujarat and others v/s. Kaushikbhai K. Patel and another [(2000) 5 SCC 615]*** in support of his contention that the liability to pay the Motor Vehicles Tax would be dependent upon the actual use of the buses and contend that, as the petitioners' buses could not be plied despite their registration prior to 30.04.2020, they would not be liable to pay Motor Vehicles Tax for the said period. He would however concede that no applications were submitted by the petitioners in this regard citing the non-user of the buses as a ground for exempting them from payment of the Motor Vehicles Tax. Unless the petitioners follow the due procedure and obtain suitable exemption from payment of Motor Vehicles Tax for the period in question, it would not be open to them to unilaterally claim the benefit of actual non-user of the buses.

As regards the consideration of the petitioners' representations/ applications for grant of route permits, the material on record demonstrates that the transport authorities favourably considered belated applications of others, long after the stipulated date for such consideration, *viz.* 20.03.2020. Route permits seem to have been issued to such applicants in May, 2020. The petitioners stand on a better footing as their representations, at least, were well within time. Therefore, the mere fact that the petitioners submitted applications in the prescribed format only in April, 2020, cannot be held against them at this stage to eschew their applications from consideration. Given the admitted fact that the transport authorities of the State bestowed their consideration on the applications of others similarly situated, there is no valid justification for the petitioners' applications being kept in cold storage. It is for the said authorities to expeditiously consider the petitioners' applications also under the Stage Carriage Scheme of 2016 and take an appropriate decision thereon. More so, as the Supreme Court deemed it appropriate to fix a time frame for such consideration.

As the petitioners are yet to address the issue of the Motor Vehicles Tax payable by them, they are permitted to make suitable representations to the transport authorities duly setting out the details of non-user of their buses so as to demonstrate that they are not liable to pay the Motor Vehicles Tax for the period in question. Upon receipt of such representations, the transport authorities concerned shall take appropriate decisions, both in relation to the exemption sought by the petitioners *vis-à-vis* the payment of tax as well as their claim for issuance of route permits under the Stage Carriage Scheme of 2016. This exercise shall be concluded expeditiously and, in any event, not later than two weeks from the date of receipt of the representations to be made by the petitioners in terms of this order.

It is however made clear that this Court has not gone into the merits of the claims made by the petitioners and it is for the transport authorities concerned to consider the same in accordance with law and take appropriate decisions thereon.

The writ petition is disposed of with the above directions.

In the circumstances, there shall be no order as to costs.

Registry is directed to issue a certified copy of this order upon production of proof of payment of requisite Court Fees.

(SANJAY KUMAR)
JUDGE

22.06.2020
Kang

whether speaking/non speaking	:	*Yes/no*
whether reportable/non reportable	*:*	*Yes/no*