

Date of decision : 28.01.2020

CWP No.24941 of 2019 (O&M)

Darshan Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CWP No.18946 of 2019 (O&M)

Subhash Chander

..... Petitioner

versus

State of Punjab & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : None for the petitioner (CWP-24941-2019).

Mr. D.S.Gandhi, Advocate
for the petitioner (CWP-18946-2019)

Mr. Pankaj Gupta, Addl. A.G., Punjab.

AJAY TEWARI, J. (Oral)

1 This order shall dispose of above mentioned two petitions.
Since common questions of law and facts are involved therein, they are
being decided by this common order.

2 ***CWP No.24941 of 2019*** has been filed for quashing of
notification No.31-LEG/2017 dated 21.12.2017 (Annexure P-3) issued by
respondent.

3 And **CWP No.18946 of 2019** has been filed for quashing of the amended proviso to Section 78 (2) of the Punjab Excise Act, 1914 which has been introduced vide the Punjab Excise (Second Amendment) Act, 2017 (Annexure P-1) whereby the security for release of the confiscated conveyance has been restricted to cash security or bank guarantee and for quashing of order dated 18.04.2019 (Annexure P-5) passed by Sh.Amrish Kumar, Sub-Divisional Judicial Magistrate, Jagraon.

4 Today learned State counsel states that he has received instructions that the State is willing to re-consider its stand.

5 Counsel for the petitioner in CWP-18946-2019 points out that while this is a welcome step the fact is that the vehicles have been now retained in the police custody since March, 2013 and July, 2019 respectively and the balance of convenience is in favour of the petitioners and therefore, the vehicles should be released.

6 In the circumstances, we deem it appropriate to order the release of the vehicles on Sapurdari on the condition that the petitioners shall deposit 20% of the assessed amount in cash and give security for the remaining amount along with the other conditions which may have been imposed by the Court to the satisfaction of the Trial Court.

7 In view of the stand of the State it is clear that no useful purpose would be served by keeping these petitions pending. Consequently, the same are disposed of as having been rendered infructuous.

8 It is however hoped that the State would take an expeditious decision on this issue so that more such litigation does not flood the Courts. The issue of vires is kept open.

9 Both the petitions stand disposed of with the above terms. However the issue against vires of the notification is kept open.

10 Since the main cases have been disposed of as infructuous, the pending Miscellaneous Applications, if any, also stand disposed of.

**(AJAY TEWARI)
JUDGE**

**(AVNEESH JHINGAN)
JUDGE**

28.01.2020

pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No