

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

Sr. No.201

**CWP No.5373 of 2020 (O&M)
DATE OF DECISION: February 17, 2021**

RAJINDER PARSHAD

..PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Balaraj Singh Dhull, Advocate, for the petitioner.

Mr. Narender Singh Behgal, AAG, Haryana.

SUDHIR MITTAL, J. (ORAL)

The grievance of the petitioner is that additional fee is being demanded for renewal of fitness certificate in respect of his vehicle bearing No.HR-58-B-5931 being used for supply of oxygen in hospitals.

Learned counsel for the petitioner submits that his vehicle had a valid fitness certificate for the period 27.12.2017 to 26.12.2018 and the application for renewal thereof was submitted on 26.12.2018 i.e. the last date of validity of the fitness certificate. The vehicle was produced for inspection on 24.01.2019 but on account of some defects in the machine meant for the inspection of the vehicle, he was asked to come again on 02.07.2019. When he went again, additional fee @ Rs.50/- per day for every day

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after expiration of the fitness certificate was demanded in accordance with amended Rule 81 of the Central Motor Vehicles Rules, 1989. The demand is illegal as Notification dated 29.12.2016 amending the Central Motor Vehicles Rules, 1989 has been struck down vide judgment dated 03.04.2017 passed by a Division Bench of the Madras High Court in WP No.1598 of 2017 titled as ***Chennai City Auto Ootunargal Sangam vs. The Secretary, Ministry of Road Transport and Highways*** and other similar cases. Although SLP against the said judgment is pending, there is no stay of operation of the judgment and thus, the legal position is that the amendment stands nullified and any demand on the basis thereof is unjustified.

Learned State counsel relies upon the preliminary submissions made in the written statement and submits that the vehicle was not produced for inspection till 28.05.2019 and the application for renewal was declined thereafter. The petitioner was again asked to bring his vehicle in July 2019 but the renewal was not granted as he did not deposit the additional fee.

Learned counsel for the petitioner is correct in arguing that demand of additional fee is illegal as amendment introduced in the 1988 Rules vide Notification dated 29.12.2016 providing for additional fee has been set aside by a Division Bench of the Madras High Court. The operation of the judgment has not been stayed by the Supreme Court and thus, as on date the amendment in the rules does not exist. Thus, demand of additional fee is unjustified.

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Accordingly, the writ petition is allowed and respondent No.4 is directed to renew the fitness certificate on payment of fee prescribed under un-amended rules, within four weeks from the date of receipt of a certified copy of this order.

CM-8467-2020

Since the main petition is allowed, the present application has been rendered infructuous and is disposed of as such.

February 17, 2021

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No