

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.23314 of 2021(O&M)

Date of decision:21.12.2021

Amar Kaur and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vaibhav Sehgal, Advocate
for the petitioners.

Mr. Amit Jhanji, Sr. Advocate, with
Mr. Navdeep Chhabra, Deputy Advocate General, Punjab
for the respondents.

ANIL KSHETARPAL, J (Oral)

Through this writ petition, filed under article 226/227 of the Constitution of India, the petitioners pray for quashing of the entire process for the grant of stage carriage permits initiated by the State Government through public notice dated 06.09.2021. The petitioners allege that due to a technical snag in the website maintained by the respondents, the petitioners failed to apply for 16 route permits to run buses under the Stage Carriage Scheme.

Some facts are required to be noticed.

The respondent-State vide public notice dated 06.09.2021 invited applications for grant of 864 permits on 248 different routes within a

period of 30 days i.e. upto 07.10.2021. Initially, the last date was extended upto the 17.10.2021 and later on, upto 08.11.2021. The petitioners claim that they identified 16 routes for submitting applications, out of which 2 routes were in district Amritsar, whereas 5 were in district Bathinda and 9 were in district Faridkot. They claim that petitioner no.2 after getting 16 demand drafts, prepared for Rs.10,100/- each, made an attempt on 01.11.2021 to apply online at 8:30PM. After the creation of an unique ID, petitioner no.2 faced a technical snag as the option of select routes did not open. Thereafter, he tried to contact the helpline number at 10:24PM and was informed that the services are provided from 8:00AM to 8:00PM. Thereafter, on calling the official number of the Transport Minister at 10:25PM, he was informed that the proper information would be given on the next day. On the next day, petitioner no.2 made an attempt to get assistance by contacting the helpline number at 8:15AM and 9:21AM, however, there was no assistance and therefore, he called the Transport Minister on 02.11.2021 at 11:52AM and 2:59 PM but the response was same. After successfully searching the mobile number of the Public Information Officer from the official website, he contacted him, who, in turn, gave him the phone number of the concerned dealing hand along with the e-mail ID of the State Transport Commissioner. On being called on the telephone, the dealing hand picked up his phone and the petitioner communicated his difficulty. The dealing hand called back the petitioner no.2 at 3:27 PM and guided him to upload the application but when he was asked to solve the problem, the petitioner received no response. The petitioner is stated to have sent a notice on 06.11.2021 and received a reply on 08.11.2021 on the WhatsApp/e-mail at 1:30PM. Thereafter, petitioner

no.2 started the process of submitting an online application and when he finally arrived at the payment details to be uploaded, he found that AU Small Finance Bank Ltd. was not in the list and therefore, the application could not be submitted. He again, contacted the official but could not get any help.

On 17.11.2021, the following order was passed:-

“The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioners complain that they could not fill/upload the online application forms for the 16 route permits under the Motor Vehicles Act, 1988. The petitioners make a grievance of the fact that due to error in the website, the online applications could not be uploaded. It has been noticed that a public notice was published in the newspaper on 07.09.2021 while granting 30 days clear period for submitting application upto 07.10.2021. Thereafter, the last date for submission was extended upto 17.10.2021. Once again, the period for submitting applications was extended upto 08.11.2021. The petitioners claim that they tried to fill online applications on 01.11.2021 and 02.11.2021. Thereafter, they sent a legal notice and they were permitted to upload their online applications on 08.11.2021 at 2.00 pm. Learned counsel submits that apart from filling the online applications they were required to submit its hard copies by 5.00 pm.

Mr. Amit Jhanji, learned senior counsel has entered appearance for the respondents and states that the department is prepared to accept the heme alveody h hard copies of the applications if the petitioners have already uploaded online applications on 08.11.2021 upto 2.00 pm.

Before proceedings with the matter, the petitioners are directed to disclose their occupation.

Adjourned to 22.11.2021.

In reply to the writ petition, the State Transport Commissioner has asserted that the State Government has, in all, received 2957 applications and as and when the petitioner no.2 contacted the officials and disclosed his difficulty, immediate help was provided. It has been pointed

out that even the AU Small Finance Bank was also included in the option of banks for making payment. It has been asserted that despite all the assistance, the petitioner did not apply.

This Bench has heard the learned counsel representing the parties and with their able assistance perused the paper book. The learned counsels representing the respective parties, have also filed the synopsis along with the gist of arguments.

The learned counsel representing the petitioners contends that the respondent-State is liable to ensure that everyone gets a proper opportunity to apply. The petitioners have been deprived of the opportunity due to a glitch/technical snag in the website, hence the entire process be set at naught. He submits that the AU Small Finance Bank was also wrongly not included in the list of banks from where the applicant could get the demand draft, for making the payment on the application, prepared. He further contends that the list supplied by the State on 16.12.2021 is forged and fabricated because it does not tally with the published list.

Per contra, Sh. Amit Jhanji, Senior Advocate, assisted by Sh. Navdeep Chhabra, Deputy Advocate General, Punjab, has submitted that the respondent-State has already received approximately 3000 applications and petitioner no.2 appears to be interested only in defeating the process of grant of 864 State Carriage Permits on 248 routes. The learned senior counsel further contends that as and when any grievance was made by any applicant, efforts were made to immediately resolve the same and further submits that the entire process has been carried out in a transparent manner. He further submits that on 17.11.2021, the department had offered to accept the hard copies of the applications, if the petitioners have already uploaded their

online applications on 08.11.2021 upto 2:00PM, however, the petitioners failed to fulfill the requirements and grab this opportunity. He, hence, contends that the writ petition deserves dismissal with a heavy cost.

On a careful study of the public notice (Annexure P-1), it is evident that the application was required to be submitted in the prescribed form, accompanied by an application fee of Rs.10,000/- and publication money of Rs.100/- per permit. The same was to be uploaded on the website www.punjabtransport.org. The hard copy of the same along with the demand draft of the application money and publication fee was required to be submitted in the concerned office of the Secretary, Regional Transport Authority within a period of 30 days i.e. upto 07.10.2021. As already noticed, the last date for applying was extended on two different occasions so as to give sufficient opportunity to the interested parties to apply. In other words, the State Government gave two months to submit the applications. Petitioner No.2 is alleged to have made the first attempt on 01.11.2021 at 08:30PM. Thereafter, he tried to contact, as already noticed, but was informed that after the opening of the office, the issue will be resolved. It is also not in dispute that the dealing official did contact petitioner no.2 on 02.11.2021 and guided him. Thereafter, the petitioner slept over the matter. He is alleged to have sent a notice on 06.11.2021 but made no grievance about the non-inclusion of the AU Small Finance Bank in the notice. It is noted here that the petitioner never made any attempt to deliver the hard copy of the respective applications in the concerned offices of the Regional Transport Authority on 02.11.2021 or 03.11.2021. There were holidays due to Diwali (festival) from 04.11.2021 to 07.11.2021. The petitioner did not even made an attempt to deliver the hard copy of the applications along with

the drafts on 08.11.2021. The concerned official received the copy of the notice sent by the petitioners on 08.11.2021 and promptly, sent a reply.

The learned counsel representing the petitioners tried to impress upon the court that since the respondent has admitted that there was a technical glitch in the website, therefore, the respondents should have extended the date. On a careful reading of the reply, it is evident that the respondent-department has not admitted about any technical glitch. What has been stated is that the grievance, of the petitioners, has been resolved and the same has been explained in detail to the satisfaction of the petitioners by the technical team on a call and the petitioners were advised to submit the applications, accordingly.

Keeping in view the aforesaid facts, the question is “whether the entire process for grant of 868 State Carriage Permits should be set at naught on a mere allegation of technical glitch, which has not been substantially proved? During the course of hearing, the learned counsel representing the petitioners was requested to apprise the Bench as to whether the petitioners deputed any representative to deliver the hard copies of their applications in the respective offices of the Regional Transport Authority in Amritsar, Bathinda and Fardikot, at least on 08.11.2021? During the hearing through video conferencing, the counsel after receiving instructions from the petitioners submitted that the petitioner did not sent their representatives to the concerned offices of the Regional Transport Authority. Further, on 16.12.2021, the learned counsel representing the State Government, on the request of the Court, produced a print out of a list of applications received between 01.11.2021 to 08.11.2021. On careful perusal thereof, it is evident that as many as 146 applications were received during the aforesaid period.

On 01.11.2021, at 13.22 hours an application was received. On 02.11.2021, as many as 4 applications were received. On 03.11.2021, another 4 applications were received. It is also evident that the application of petitioner no.2 is also enlisted at Sr.No.6. However, petitioner no.2 did not submit the hard copy of the application. He is stated to have submitted the online application on 03.11.2021 at 9.42AM. The learned counsel representing the petitioners tried to explain that the aforesaid list is forged and fabricated as the mobile number of petitioner no.2 is different from what is mentioned in the information supplied by the State Government. On a careful perusal of the list of the 146 applications, it is evident that various individuals/firms as well as Punjab Roadways have submitted their applications.

Keeping in view the aforesaid facts, there is no conclusive evidence to prove that the Website of the department faced any serious technical glitch or snag. This Court is conscious of the fact that the disputed questions of fact are involved, however, the last date for submission of applications has already lapsed. Therefore, this court is left with no choice but for to proceed on the basis of the material available. It is not the case of the petitioners that there was any malafide on the part of the officials to only exclude the petitioners. It may be noted here that nearly 3000 applications have been received which are being processed. The petitioners, for the first time thought of submitting an application on 01.11.2021 at 08:30PM. On 02.11.2021, they have allegedly made certain attempts to seek assistance but the dealing official did contact the petitioners in order to extend a helping hand. Thereafter, the petitioners, again, did not take any steps to deliver the hard copy of the applications. The petitioners sent a notice on 06.11.2021. There is no explanation why the petitioners

wasted a crucial period of time after 02.11.2021. On 08.11.2021, the officials even included the AU Small Finance Bank in the list, however, the petitioners did not even upload their online applications. In such circumstances, this court is left with no other option but to draw an adverse inference against the petitioners.

In the considered opinion of the Court, this writ petition is a mere attempt by the petitioners to thwart the process of grant of route permits by the State Government, which has been otherwise carried out successfully and transparently. Had the petitioners been serious in submitting the applications, they would have started the process timely after the issuance of public notice dated 07.09.2021 and not at the last moment. Moreover, three similar writ petitions were filed making a similar grievance, out of which two have already been withdrawn.

Keeping in view the aforesaid facts, the petitioners have failed to make out a case for the issuance of a writ under Article 226/227 of the Constitution of India.

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

21st December, 2021
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No