

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

101+239

**CWP-3989-2020 (O&M).
Date of Decision: 01.11.2022.**

Sanjeev Kumar

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: None

VINOD S. BHARDWAJ. J.

The instant writ petition has been filed under Articles 226/227 of the Constitution of India, praying non-implementation of Notification dated 29.01.2016 (Annexure P-1), issued by the Ministry of Road Transport and Highways to the extent of the imposition of additional fee under various heads.

Briefly summarised, the claim of the petitioner is that the Ministry of Road Transport and Highways had issued a Notification bearing No.G.S.R. 1183 (E) dated 29.12.2016, thereby amending Rule 32 and Rule 81 of the Central Motor Vehicle Rules, 1989 and fixed the new fee structure under the Motor Vehicles Act, 1988, whereby additional fees were levied for certain categories of services rendered by the Authority under the Act. In compliance to the aforesaid order, letter

dated 06.01.2017, was circulated by the Ministry of Road Transport and Highways pertaining to implementation of the said Notification.

By virtue of the said notification, the respondents started charging additional fee of Rs.50/- for each day of delay after expiry of the certificate of fitness. The validity of the vehicle of the petitioner expired on 14.01.2019 and when the petitioner approached the office of respondent No.4 i.e. the Regional Transport Authority (RTA), Kurukshetra, it refused to receive the normal charges as applicable for getting a fitness certificate and asked for depositing of additional fee in terms of the aforesaid Notification. The petitioner claimed to have submitted a representation on 18.09.2019 and a subsequent reminder on 03.10.2019. However, no action was taken thereupon thus compelling the petitioner to file the present writ petition.

It is averred that the fee is being levied in the nature of penalty for an everyday default in renewal of certificate of fitness. No additional service is being offered and as such the levy is illegal.

Reliance was also placed on a Division Bench of the Madras High Court passed in the matter of **Chennai City Auto Ootunargal Sangam, represented by its Secretary Vs. The Secretary, the Ministry of Road Transport and Highways, Union Government of India, New Delhi, reported as 2017 (3) MLJ 769** wherein it was held that the revision of additional fee under various heads vide the impugned Notification was without authority and hence, was liable to be set aside. It was also observed by the Division Bench of the Madras High Court that the levy of additional fee was in the nature of penalty especial when there is no change in the nature of the services rendered by the Authority

under the Act and the same was devoid of any statutory backing for the same.

The State of Haryana has filed its response. The relevant extract of the said response is reproduced as under:-

“2. That it is respectfully submitted that a similar matter in CWP No.5373 of 2020 titled as Rajinder Parshad Vs. State of Haryana and Others which was decided on 17th February 2021, the Hon'ble Court had already passed the order that demand of additional fee by way of Notification dated 29.12.2016 is unjustified and had directed the respondent authorities to renew the fitness certificate of the petitioner on payment of fee prescribed under un-amended rules So, the directions issued by this Hon'ble Court are being duly complied with and the answering respondents are not charging any additional fee for renewal of fitness.

3. That the respondent no.4 had issued a letter to the present petitioner Sanjeev Kumar vide memo No.2992 dated 03.05.2021 that he can get his vehicle inspected for renewal of fitness on the fixed days i.e. Tuesday and Thursday on deposit of regular prescribed fee and that no additional fee/penalty would be charged from him, and if his vehicle is found fit for renewal, fitness certificate will be issued to him. However, the petitioner did not produce his vehicle for inspection. Again a reminder was issued to the petitioner vide memo No.3858 dated 18.6.2021, through registered post, however the petitioner has not come forward so far for getting fitness of his vehicle renewed. Copies of the letters are annexed as ANNEXURE R-1 & R-2 and its true English translation are annexed as ANNEXURE R-1/T & R-2/T.

4. That it is evident that the answering respondents are not implementing the notification dated 29.12.2016 and no additional fee is being charged from the petitioner.”

It is evident from the above response that the respondents are not implementing the aforesaid Notification dated 29.12.2016 and no additional fee is being charged from the petitioner. As a matter of fact, the respondents claim to have already asked the petitioner to approach the authorities and to obtain the fitness certificate of his vehicle renewed without payment of any additional fee/penalty.

In view of the specific response filed by the respondent State specifically stating that the Notification dated 29.12.2016 has not been implemented, no further directions are required to be issued in the present case. The present petition is, accordingly, disposed of as having been rendered infructuous, at this stage.

The petitioner shall be at liberty to approach the concerned Transport Authorities for seeking renewal of the fitness certificate and upon the petitioner approaching the concerned Authorities, the requisite fitness certificate shall be renewed on the regular fee and without demanding any additional penalty/fee in terms of the Notification dated 29.12.2016 and subject to the petitioner fulfilling any other statutory requirement.

Pending misc. application, if any, shall also stand disposed of accordingly.

November 01, 2022
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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