

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

CWP-2401-2004

Date of decision: 02.05.2022

New Krishna Co-operative Transport Society Limited

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Rajinder Sharma, Advocate, for the petitioner.
Mr. Deepak Balyan, Additional Advocate General, Haryana.

RAVI SHANKER JHA, C.J. (Oral)

The petitioner has filed this petition being aggrieved by order dated 09.12.2003, passed by the Regional Transport Authority, rejecting his application(s) for grant of stage carriage permits for the routes: (i) Ambala City to Karnal (No.7), (ii) Ambala City to Kaithal (No.8), (iii) Naraingarh to Ambala Cantt. (No.13), (iv) Karnal to Ambala (No.268) and (v) Kurukshetra to Ambala (No.294), as well as for quashing the notification dated 25.02.2000 vide which the approved scheme was rescinded. At the initial stage, this Court had entertained the petition only on the ground raised by the petitioner to the effect that the impugned order was not passed by the Regional Transport Authority as constituted vide notification dated 20.09.2002 (P-9), but the same was passed by only the Director Transport, Haryana and was, therefore, without jurisdiction. Notices on this ground were issued to the respondents.

The respondents have filed the return and have stated that the proceedings on 09.12.2003 were taken up and heard by the Regional Transport Authority as constituted vide notification dated 20.09.2002 (P-9) and apart from the Director Transport, all the three Secretary RTAs, Karnal, Kurukshetra and Ambala, were present at the time of hearing. The respondents in the return has stated that notice of the hearing was sent to the applicant-petitioner, but he remained absent on that date. Learned Additional Advocate General, Haryana has produced a copy of the order-sheet dated 09.12.2003, wherein these aspects have clearly been stated. The respondents in para 12(i) to (vii) of the return, have also clarified the said facts, which is to the following effect:

“12. i) That contentions made in this sub-para are wrong and hence denied. The order at Annexure P-6 was passed by respondent No.3 as a legally constituted body functioning as Regional Transport Authority which is amply clear from para 7 of Annexure P-6. This order is perfectly legal.

ii), iii), iv), v) & vi) That in reply to these sub paras it is reiterated that a proper meeting was held on 9.12.2003 which was attended by respondent No.2 to 5 who constitute Regional Transport Authority in terms of notification at Annexure P-9. The petitioner did not appear. The case was decided on merits vide Annexure P-6 to P-8. The use of the words “concurrence of District Transport Officer-cum-Secretary, Regional Transport Authority does not mean or imply that there was no meeting.

vii) That in reply to sub para vii, it is submitted that the petitioner was given opportunity to be heard in person and on the written request of the petitioner, opportunity of hearing was given to him for 9.12.2003, before the Regional Transport Authority. The petitioner did not appear on 9.12.2003. The Regional Transport Authority

passed the order vide Annexure P-6 to P-8. Annexure P-10 dated 16.12.2003 was received on 17.12.2003 when the case had already been decided in the meeting of Regional Transport Authority held on 9.12.2003. A reply to Annexure P-10 was sent to the petitioner vide Annexure R-3 in which the position was explained to him.”

In view of the aforesaid, the contention of the petitioner that the impugned order being passed by the Director Transport alone is without jurisdiction is factually incorrect. On the contrary, in view of the averments in the return and the documents placed before us, it is evident that the impugned order dated 09.12.2003 has been passed by the duly constituted Regional Transport Authority.

It is also evident from the impugned order that the Regional Transport Authority has rejected the petitioner’s application on the ground that Regional Transport Authority has no power to grant permits under Section 80 of the Motor Vehicles Act, 1988, for the routes in question have always been reserved for Haryana Roadways, i.e. State Transport, to the exclusion of all others. Evidently, the said reasoning is also in accordance with the provisions of law and cannot be found fault with.

Apart from the above, it is also observed that the impugned order was passed in the year 2003 and nothing has been placed before this Court to indicate that cause raised therein still survives after a long lap of almost 20 years specifically in view of the fact admitted by counsel for the petitioner that the scheme as well as notification etc. that were existing in the year 2003 are no longer in existence.

In the circumstances, the petition filed by the petitioner is, accordingly, dismissed.

(Ravi Shanker Jha)
Chief Justice

(Arun Palli)
Judge

02.05.2022
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO