

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

**CM-3610-CWP-2022 in/and
CWP-29911-2017
Date of decision: 17.03.2022**

Mange Ram ...Petitioner
V/S
State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sanchit Punia, Advocate,
for the applicant/petitioner.

Ms. Kirti Singh, DAG, Haryana.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

CM-3610-CWP-2022

This is an application for preponing the main case, which is pending for 17.10.2022.

For the reasons stated in the application, the same is allowed and the main case is taken up on Board for hearing today itself.

Main case

Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing the respondents to provide one more opportunity to the petitioner for appearing in driving test for the post of Heavy Vehicle Driver.

2. Learned counsel for the petitioner submits that having successfully participated in the written examination, he was wrongly failed in his earlier driving test held on 14.12.2014, allegedly on account of technical fault in the bus. He submits that another chance be given in a changed bus as there was technical fault in the earlier bus. He submits that qua his aforesaid grievance, petitioner also submitted a representation dated

15.12.2017 (Annexure P-5) but to no avail. Hence, the instant petition, which has been pending since year 2017.

3. This Court while hearing similar bunch of cases had passed the following order on 06.02.2018 in the lead petition bearing CWP No.400 of 2018 :

“ In compliance of the previous order, Mr. Yogender Kumar, Senior Technical Director, NIC, who is present in Court, has submitted feasibility report dated 02.02.2018 on the subject matter of ‘uploading of video recording data of driver recruitment test conducted by Haryana Staff Selection Commission on the website of the Commission’. The same is taken on record as Mark ‘A’. The report suggests that it would be impracticable to upload the data, which is approximately 12.5 Terabytes, which, to imagine, is almost twice the data that this High Court record supports. The total data of CCTV assessed by Mr. Kumar is approximately 16 Terabytes. Thus, it is neither practical nor possible and nor will serve any useful purpose to upload such extensive volume of data on the space available on the server of the Commission and, therefore, the idea of uploading of video recording data of the Driving Proficiency Test is dropped. The report further records that the data is lying on external hard disk. On repeated views, there are high chances of data/storage device getting corrupted. Thus, this data needs to be preserved on some alternate storage.

Mr. Yogender Kumar has met with Mr. Puneet, IT Incharge, HSSC and informs that the team in the Commission is equipped to preserve the data in an alternative storage so that it is preserved and remains accessible during the period of litigation. Mr. Kumar suggests that this exercise would take minimum two or three days. Accordingly, the Commission would take steps to complete the exercise of safe storage within this week.

Heard Mr. B.R.Mahajan, learned Advocate General, Haryana and the respective counsel representing the petitioner/s in this bunch of cases.

All the petitioners as well as other unsuccessful candidates, who want to view videos of their driving proficiency test, are allowed to do so in the premises of the Commission on payment of Rs.5000/- by way of Demand Draft/Banker’s Cheque drawn in the name of Secretary, HSSC, Haryana, Panchkula to be maintained by the Commission under the head of account of this order till the money is accounted for and regularized by the Commission in accordance with law.

The Commission will receive requests for screening of videos in the presence of candidate/s and on payment of Rs.5000/- the candidate/s would be permitted to see and take copies of their videographed test record in Pen Drives only. This exercise be completed between 12.02.2018 till 26.02.2018.

After viewing the clips, if a candidate finds/discovers that his candidature has been wrongly rejected and should be treated as having qualified the test, he can file objections with the Commission till 08.03.2018, which will be decided within three days thereafter i.e. on or before 11.03.2018. Other than hard copy, the objections can be sent through e-mail on the website of the Commission.

Needless to say that the video material would be read in the context of criteria already published for the driving proficiency test. All the learned counsel representing the petitioners in whose cases notice has not been issued would supply list of cases and number of petitioners with names in the office of the Advocate General, Haryana within two days from today.

Since all the unsuccessful candidates, apart from the petitioners, have been granted liberty to view their driving test clips within the above time frame, Registry is restrained from entertaining any further litigation involving the present selection process.

List again on 15.03.2018.

Meanwhile, the State would not fill posts as many are the petitioners. The Commission would be free to make its recommendations to the Government on the remaining vacancies. The stay order is modified accordingly.

A copy of this order be placed on all the connected files.”

4. Learned State counsel appears and submits that competent authority shall take decision either way, on the pending representation of the petitioner, in due course.

5. Learned counsel for the petitioner also agrees that let a final decision be taken, by the competent authority on the pending representation of the petitioner.

6. Given the nature of order being passed, there is no necessity to seek return by any of the respondents as no further proceedings and/or pleadings are required.

7. Since both the learned counsels are *ad idem* that even though it is belated but yet the competent authority would decide the pending representation, without commenting on the merits of the case, the writ petition is therefore disposed of with a direction to the competent authority to look into the grievance of the petitioner as per representation dated 15.12.2017 (Annexure P-5) and take a decision by keeping the observations of this Court in mind in terms of order dated 06.02.2018, *ibid*, in accordance with law within a period of 30 days.

8. It would be appreciated if petitioner is also accorded personal hearing on any day to be notified to him by the Commission on the petitioner approaching the Commission along with a copy of this order.

9. Disposed of accordingly.

17.03.2022
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No