

**LPA-475-2021
and other connected matters**

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

1.

State of Haryana and others

LPA-475-2021O&M)
Reserved on: 01.08.2023
Date of Decision: 24.08.2023

....Appellants

versus

The Dabra Cooperative Transport Society Limited and others

...Respondents

2.

State of Haryana and others

LPA-476-2021(O&M)

....Appellants

versus

Kulbir Singh and others

... Respondents

3.

State of Haryana and others

LPA-477-2021(O&M)

....Appellants

versus

Ashok Kumar and others

... Respondents

4.

Rajesh Kumar and others

LPA-480-2021 (O&M)

....Appellants

versus

State of Haryana and others

... Respondents

5.

Ravinder Kumar and others

LPA-484-2021 (O&M)

....Appellants

versus

State of Haryana and others

... Respondents

6.

Tilak Raj

LPA-468-2022 (O&M)

....Appellant

versus

The State of Haryana and others

... Respondents

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CORAM: **Hon'ble Mr.Justice Deepak Sibal**
Hon'ble Mrs.Justice Sukhvinder Kaur

Present: Mr. Hitesh Pandit, Additional Advocate General, Haryana
for the appellants in LPA Nos.475, 476 & 477 of 2021 and
for the official respondents in LPA-480, 484-2021 and
LPA-468-2022

Mr. Amit Jhanji, Senior Advocate with
Mr. Ravinder Rawal, Advocate and
Ms. Nikita Garg, Advocate
for the respondents in LPA-477-2021

Mr. Vikram Singh, Advocate
for the appellants in LPA-480 and 484-2021 and for respondent
Nos.8-11, 13-15, 17-19, 22 and 25 in LPA-475-2021

Mr. Mukesh Kumar Sharma, Advocate
for the appellant in LPA-468-2022 and
for respondent No.12 in LPA-475-2021

Mr. B. S. Patwalia, Advocate and
Mr. Akshit Pathania, Advocate
for respondent Nos.1 to 4 in LPA-477-2021 and
for the respondents in LPA-476-2021

Mr. Rohit Kapoor, Advocate
for the respondent Nos.1 to 7 in LPA-475-2021

Deepak Sibal, J.

1. These six intra court appeals have been taken up and are being decided together as they arise out of a common judgment dated 08.04.2021 passed by a learned Single Judge of this Court. For the sake of convenience, facts are being taken from LPA-475-2021 – State of Haryana vs. The Dabra Coop. Transport Society Ltd. and others.

2. To provide for a coordinated road transport system, the State of Haryana, while exercising its powers under Section 99(1) of the Motor Vehicles Act, 1988 (for short – the Act) published a proposed scheme to which objections/ suggestions were invited. After considering the received objections/ suggestions, the State, in terms of Section 100(2) of the Act,

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through a notification dated 17.02.2017, published the final scheme. The final scheme was notified on 17.02.2017 but since the proposed or the draft scheme had been notified in the year 2016, the final scheme was commonly referred to as the Stage Carriage Scheme of 2016 (hereinafter also referred to as the 2016 scheme). Respondent Nos.1 to 7 applied for and were granted Stage Carriage Permits under the 2016 scheme. These permits were valid for 5 years.

3. The 2016 scheme was challenged before this Court through CWP No.5867-2017 – Nayabash Cooperative Transport Society Limited and others vs. State of Haryana and others. On being put to notice the State filed an affidavit as per which it had reconsidered the entire matter and decided to withdraw the 2016 scheme as also to publish a fresh draft scheme; till the fresh scheme was finalized all permit holders under the 2016 scheme would be allowed to ply their buses on the allotted routes; the applicants who had already got their vehicles registered under the 2016 scheme on the portal of the Transport Department, Haryana, namely, Vahan would also be considered for the grant of permits and that this would be in addition to any other interested applicant whose case would also be considered in accordance with Section 102 of the Act.

4. After considering the afore stand taken by the State, this Court disposed of the writ petition on 16.05.2017 after observing that till the fresh scheme was notified, the 2016 scheme would continue to operate and that the State would also be at liberty to grant permits to the applicants who had already got themselves registered under the 2016 scheme on the portal of the Transport Department, Haryana.

5. On 20.06.2017 the State of Haryana notified a draft scheme (for reference - the draft 2017 scheme). Objections/ suggestions were invited to the

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draft 2017 scheme but before the said scheme could be finalized some parties who felt aggrieved by the aforesaid order of this Court dated 16.05.2017 filed an application before this Court seeking their impleadment as also review of the said order. The application was disposed of through order dated 21.07.2017 the operative part of which reads as under:-

“The writ petition along with other connected cases was initially filed seeking to challenge the notification dated 17.2.2017 notifying the Stage Carriage Scheme, 2016 for issuance of Stage Carriage Permits under the Act. As during the pendency of the writ petitions, the State decided to cancel the 2016 Scheme and issue a fresh draft modified scheme, the writ petitions were disposed of giving liberty to the State to notify the draft scheme and finalise the same within six months. During the interregnum, to take care of the requirement of the passengers, permit holders under the 2016 Scheme were permitted to ply the buses. The State was also at liberty to issue permits to the applicants who had already registered their vehicles on the portal of the department “Vahan”.

The grievance of the applicants is that in fact, they had applied for issuance of permits and had been issued offer of allotment in March/ April, 2017. On fulfilment of conditions laid down in the offer of allotment within the specified time, permits were to be issued and the applicants were also required to be considered for allotment of temporary permit treating them to be applicants before the order was passed by this court.

Be that as it may, in our opinion, that issue is not required to be considered for the reason that the stand taken by the State is that the draft scheme has been notified on 23.6.2017 and any applicant can apply for issuance of a temporary permit on the routes, as specified in the draft scheme, or of his choice including the routes mentioned in the offer of allotment. On fulfilment of the conditions required for the purpose, the application so filed shall

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be considered and final decision shall be taken thereon within a period of one week from the date of filing of the application. Let the needful be done.

The aforesaid interim arrangement is till the final Stage Carriage Scheme is notified in supersession of the 2016 Scheme.

With the aforesaid modification in the order passed on 16.5.2017, the review application is disposed of.”

6. In the meanwhile, the private respondents in the Nayabash Cooperative Transport Society Limited’s case (supra), challenged the order of this Court dated 16.05.2017 before the Supreme Court. On 04.09.2017 the Supreme Court ordered the listing of the matter on 22.09.2017 and in the meanwhile directed maintenance of status quo. On 13.10.2017 the Supreme Court modified the status quo order dated 04.09.2017 to the extent that the State of Haryana was granted liberty to call for and consider objections in respect of the draft 2017 scheme but with a rider that the State could not finalize the said scheme; the transporters who were operating on the basis of the 2016 scheme shall be permitted to continue; if their permit(s) had expired the same shall be renewed, in accordance with law and that if any transporter was eligible to obtain a permit in pursuance to the impugned directions given by the High Court his case shall also be considered and not rejected only on the ground that a new scheme was under finalization. The matter was finally disposed of by the Supreme Court on 21.01.2020. In its final order the Supreme Court noticed and accepted the stand taken by the State to withdraw the draft 2017 scheme along with all dispensations afforded under that draft scheme. The permission sought by the State to proceed under Section 102 of the Act to cancel / modify the 2016 scheme but only after following the process of law as also the principles of natural justice was also granted. The Supreme Court

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further directed that any other eligible person, which would include the appellants before it, would be free to apply to the concerned authority, if they had already not applied, for registration and grant of permit(s) but within one week from the date of the order of the Supreme Court and that if any such application was made, the competent authority was directed to consider the same, in accordance with law, expeditiously but in any case before 20.03.2020. Liberty was also granted to the appellants before the Supreme Court to challenge the final decision to be taken by the competent authority.

7. Through its order dated 21.01.2020 the Supreme Court had directed the State to dispose of all applications for the grant of permits before 20.03.2020. However, the State took its own sweet time and through a letter dated 20.03.2020 the Transport Commissioner, Haryana wrote to all ADC-cum-Secretaries, Regional Transport Authorities in the State of Haryana seeking information with regard to the applications made for the grant of permits. The desired information was supplied as per which there were 627 applications in total seeking permits for different routes. The matter was then considered by the Transport Minister, Haryana and only after the same had been approved by the Chief Minister did the Transport Commissioner, Haryana took a decision on 30.03.2020 to grant permits to not only those applicants who had applied under the 2016 scheme in terms of the order of the Supreme Court dated 21.01.2020 but also to those applicants who had applied after the period allocated by the Supreme Court as also to those who had already applied under the draft 2017 scheme. The applicants who were registered on the portal of the Transport Department, Haryana but were not applicants under the 2016 scheme or the draft 2017 scheme were also to be granted permits on the ground that

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after getting themselves registered on the portal they already purchased/ leased their buses.

8. At the time of passing of the order by the State dated 30.03.2020 respondent Nos.1 to 7 were existing Stage Carriage Permit holders under the 2016 scheme. After passing of the aforesaid order they knocked the doors of this Court seeking therein to set aside the allotment of permits/ letter of intents to the private respondents in the said writ petition (hereinafter referred to as the private respondents in the writ petition). The grounds of challenge raised by them in their petitions were that the private respondents in the writ petition were applicants under the draft 2017 scheme which stood withdrawn; that their applications had been made beyond the window of seven days granted by the Supreme Court in its order dated 21.01.2020; the temporary permits granted to them were beyond the provisions of the Act and that some of private respondents in the writ petition had been granted permits only because they had purchased/ leased buses after getting themselves registered on the portal of the Transport Department, Haryana. Respondent Nos.1 to 7 also challenged the action of the State on the ground that the order dated 30.03.2020 passed by the Transport Commissioner, Haryana was influenced by the Government and the same not being an independent decision was liable to be quashed.

9. The State of Haryana defended its action by submitting that the Supreme Court in its order dated 21.01.2020 had nowhere prohibited the competent authority to grant permits to the applicants who had submitted their applications after 21.01.2020; respondent Nos.1 to 7 were existing permit holders under the 2016 scheme and had sought setting aside of the permits granted to the private respondents in the writ petition so that only respondent Nos.1 to 7's buses would ply on the respective routes; the competent authority

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had granted permits to the private respondents in the writ petition as they had already applied under the draft 2017 scheme as also because after being registered on the portal of the Transport Department, Haryana they had already purchased/ leased buses in anticipation for the grant of permits.

10. Influence of the Government on the issue of grant of permits on the competent authority was specifically denied.

11. The learned Single Judge culled out the following two points for determination:-

“(A) Whether in view of the facts and circumstances of the present case(s), the State Government was empowered in law to take the purported executive decision communicated vide Memo dated 30.03.2020?”

“(B) Whether impugned offer of allotments/LOIs and permits granted/issued in favour of the private respondents are legally sustainable?”

12. Point ‘A’ was decided in favour of respondent Nos.1 to 7 as the learned Single Judge was of the view that the permits granted to the private respondents in the writ petition had resulted from the influence exerted by the Government on the Transport Commissioner, Haryana. The learned Single Judge arrived at such decision after calling for and perusing the original record.

13. On point ‘B’ the learned Single Judge concluded that the private respondents in the writ petition had been granted permits despite the fact that they were applicants under the draft 2017 scheme which stood already withdrawn or were those applicants who had applied beyond the window of seven days granted by the Supreme Court or were those who had simply

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purchased/ leased buses in anticipation of grant of permits after having been registered on the portal of the Transport Department, Haryana.

14. The final conclusions arrived at by the learned Single Judge read as under:-

- “i) *The State Government was not legally empowered to take the executive decision communicated by respondent No.2 vide Memo dated 30.03.2020, thus, their actions are found to be without legitimate authority;*
- ii) *As on today, Scheme of 2016 is valid in law; all the petitioners were granted stage carriage permits under this very Scheme on the routes in question for a period of five years i.e. up to March, 2022; plying their buses and paying the requisite taxes to the Government. On the other hand, private respondents have been granted the impugned temporary permits on these very routes in breach of the provisions of the Act including proviso to Section 104 as well as the approved Scheme of 2016;*
- iii) *The private respondents were granted the impugned temporary permits on the basis of applications submitted between the period 29.01.2020 to 31.03.2020 and as such, the same were not submitted within the deadline fixed by Hon'ble Supreme Court. There is no material available on record either by way of an order or otherwise except tabulation (R-1) that the impugned permits were granted on the basis of pending applications of the private respondents made prior to 28.01.2020;*
- iv) *The respondent No.3 issued the impugned permits merely in compliance of the Government decision, but without application of mind or in accordance with law, thus, violated the order dated 21.01.2020, passed by the Hon'ble Supreme Court;*
- v) *Despite repeated asking by the petitioners, respondent No.3 did not produce even a single copy of order showing that applications of the private respondents were considered at all much less in accordance with law while granting the impugned permits, thus,*

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the entire exercise to that effect is vitiated being without jurisdiction;

- vi) The State Government while directing the Secretaries including the respondent No.3 has interfered in the independent functioning of the transport authorities, thus, the process for grant of the impugned permits has been influenced, resulting into the complete negation of the rule of law;*
- vii) The petitioners have already been granted the permits to ply their buses on the routes in question; but the private respondents invaded their lawful rights under the garb of the impugned permits, which are found to be legally unsustainable and as a result thereof, the rights of the petitioners flowing from Article 19(1)(g) of the Constitution have been infringed;*
- viii) The petitioners while approaching this Court have shown not only sufficient, but genuine interest in the subject matter under challenge for the purpose of locus standi and as such, they have rightly invoked the jurisdiction of this Court under Article 226 of the Constitution;*
- ix) That all actions of the official respondents are found to be in violation of order of the Hon'ble Supreme Court while not proceeding in accordance with law."*

15. In the light of the afore conclusions the writ petition filed by respondent Nos.1 to 7 was allowed resulting in the setting aside of the impugned letters of intent and permits (temporary or otherwise) granted to the private respondents in the writ petition. It is in these circumstances that the State has preferred the instant intra court appeal.

16. Learned counsel for the appellant submitted that in its order dated 21.01.2020 neither the Supreme Court barred the consideration of applications received by the Transport Department, Haryana after the window of seven days mentioned in the said order nor consideration of cases already pending under

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the draft 2017 scheme; the consideration of the applications for the grant of permits to the private respondents in the writ petition was in the light of the order dated 21.07.2017 passed by this Court while deciding the review application filed for modification of its earlier order dated 16.05.2017 in *Nayabash Cooperative Transport Society Limited's case (supra)* wherein this Court permitted consideration of applications made under the draft 2017 scheme and those registered on the portal of the Transport Department, Haryana and that in any case, till the finalization of a fresh scheme, the Transport Department, Haryana had granted permits in public interest for the efficient and adequate road transport system in the State.

17. On the issue of interference by the Government it was vehemently denied that the competent authority which had granted the permits was in any manner influenced by the Government and with a further submission that finding on this issue by the learned Single Judge was conjectural.

18. Mr.Vikram Dhakla, Advocate who appeared for the private respondents in the writ petition adopted the arguments made on behalf of the State.

19. Per contra, Mr.Rohit Kapoor appearing for respondent Nos.1 to 7 submitted that respondents Nos. 6, 7, 8, 9, 12, 14, 18 and 22 in the original writ petition were applicants under the draft 2017 scheme; since the draft 2017 scheme stood withdrawn on 21.01.2020, no permits after the withdrawal of the draft 2017 scheme could have been granted to them; many of the respondents in the original writ petition were those persons who have been granted permits in spite of the fact that they never applied for a permit, therefore no temporary permits could have been granted to the private respondents in the writ petition and that none of the private respondents in the original writ petition had

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applied within the window of 7 days granted by the Supreme Court and therefore their cases could not have been considered at all for the grant of permits.

20. On the issue of the Government having influenced the grant of permits, Mr.Kapoor submitted that as per the law settled by the Supreme Court in **Pancham Chand and others Vs. State of Himachal Pradesh, (2008) 7 SCC 117**, the role of the Government ceases with the formulation of the Transport Policy and that thereafter permits are to be granted only under the Transport Policy within the strict domain of the Transport Authorities constituted under Section 68 of the Act. However, in the case in hand the record as produced before the learned Single Judge clearly revealed to the contrary. Therefore, the learned Single Judge rightly held that the decision for the grant of permits to the private respondents in the original writ petition was not free from interference by the Government and thus in violation of the law laid down by the Supreme Court in *Pancham Chand's case* (supra).

21. Learned counsel for the parties have been heard and with their able assistance the record of the case has also been perused.

22. The stage carriage permits impugned by respondents No.1 to 7 were granted to the private respondents in the writ petition in terms of the memo/order dated 30.03.2020 issued by the Transport Commissioner, Haryana. The validity and legality of these permits are to be determined.

23. After perusal of the original record produced before him the learned Single Judge has observed that after passing of the order of the Supreme Court dated 21.01.2020 passed in Civil Appeal No.556 of 2020 (arising out of SLP (Civil) No.22800/2017)- **The Haryana Cooperative Transport Society Ltd. & ors. Vs. State of Haryana & ors.**, the matter with

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regard to the grant of permits was submitted by the Principal Secretary, Department of Transport, Haryana, for consideration of the Transport Minister. The proposal was accepted by the Transport Minister on 20.03.2020. Thereafter, the same was also approved by the Chief Minister on 27.03.2020 and it is only thereafter that the decision to grant the impugned permits was communicated by the Transport Commissioner through the memo/order dated 30.03.2020. In fact, in the memo dated 30.03.2020 also it has specifically been mentioned that:-

“approval of the State Government was sought regarding modification of the Stage Carriage Scheme of 2016 as per statement given by the State Government before the Hon'ble Supreme Court of India and grant of permits under the Stage Carriage Scheme of 2016 to applicants falling in the categories mentioned in the above table. The approval of the Hon'ble CM has been obtained. In compliance thereof, registration of any unregistered bus of B-I, B-II and C categories shall be done by 31.03.2020. Also, the permits applied for, shall be granted to these B-I, B-II and C categories expeditiously. As for category 'A', the decision of the Government shall be communicated in due course. Accordingly, the following directions are issued for grant of permit to the applicants falling in category B-I, B-II and C.....”
(emphasis supplied)

24. The learned Single Judge further observed that although the memo/ order dated 30.03.2020 is not expressed to have been issued in the name of the Governor, it was duly established that the decision for the grant of permits was taken by the Transport Minister and only after such decision of the Transport Minister had been approved by the Chief Minister was it formally conveyed to all concerned through the memo/ order dated 30.03.2020.

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25. Except for a formal denial, learned State counsel, who appears for the appellants has not even suggested any factual infirmity in the afore referred observations recorded by the learned Single Judge. No record to the contrary has also been produced.

26. The Supreme Court in *Pancham Chand's case (supra)* has held as follows:-

“18. The Act is a self contained Code. All the authorities mentioned therein are statutory authorities. They are bound by the provisions of the Act. They must act within the four corners thereof. The State, although, have a general control but such control must be exercised strictly in terms of Article 162 of the Constitution of India. Having regard to the nature and the manner of the control specified therein, it may lay down a policy. Statutory authorities are bound to act in terms thereof, but per se the same does not authorize any Minister including the Chief Minister to Act in derogation of the statutory provisions. Constitution of India does not envisage functioning of the Government through the Chief Minister alone. It speaks of Council of Ministers. The duties or functions of the Council of Ministers are ordinarily governed by the provisions contained in the Rules of Business framed under Article 166 of the Constitution of India. All governmental orders must comply with the requirements of a statute as also the constitutional provisions. Our Constitution envisages a rule of law and not rule of men. It recognizes that, how so ever high one may be, he is under law and the Constitution. All the constitutional functionaries must, therefore, function within the constitutional limits.

19. Apart from the fact that nothing has been placed on record to show that the Chief Minister in his capacity even as a Member of the Cabinet was authorized to deal with the matter of transport in his official capacity, he had even otherwise absolutely no business to interfere with the functioning of the Regional Transport

20. *Factual matrix, as indicated hereinbefore, clearly goes to show that the fourth respondent filed the application before the Chief Minister straightaway. Office of the Chief Minister communicated the order of the Chief Minister, not once but twice. Respondent No.2 acted thereupon. It advised the Regional Transport Authority to proceed, after obtaining a proper application from respondent No.4 in that behalf. This itself goes to show that prior thereto no proper application was filed before the Regional Transport Authority. Such an interference on the part of any authority upon whom the Act does not confer any jurisdiction, is wholly unwarranted in law. It violates the constitutional scheme. It interferes with the independent functioning of a quasi judicial authority. A permit, if granted, confers a valuable right. An applicant must earn the same.*

28. *We also fail to understand as to how an independent quasi judicial body, like the respondent No.3, could affirm an affidavit together with the State. Its duty before the High Court, in response to the rule issued by it, was to place the facts as borne out from the records. It was not supposed to take any stand one way or the other. It had no business to defend the State or the Chief Minister.”*

GOPAL KRISHNAN
2023.08.28 16:06
I attest to the accuracy and
integrity of this
order/judgment

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Act empowers the State Government to control road transport having regard to the factors enumerated therein. Section 68 provides for constitution of the State Transport Authority. An application for the grant of a Stage Carriage Permit, as envisaged under Section 69 of the Act, is to be filed in terms of Section 70 thereof. Section 71 provides for procedure to be followed by the Regional Transport Authority in considering the application for the grant of a Stage Carriage Permit and Section 72 empowers the Regional Transport Authority to grant Stage Carriage Permits in respect of any route or the area specified in the application. The other provisions contained in the Act provide for the mode and manner for dealing with the applications for grant of other type of permits. Therefore, in the matter of granting of permits, the State has no say.

28. In the light of the above, the learned Single Judge has rightly observed that under the garb of the memo/ order dated 30.03.2020, the State Government virtually assumed the power of a superior authority over the transport authorities and as such negated the entire concept of independence in the grant of permits.

29. In the instant case, we also find that the permits have apparently been granted in compliance of the directions and in the course as suggested by the State Government. This contravened Section 104 of the Act as well the terms of the 2016 scheme. Thus, the learned Single Judge has rightly concluded that the action of the State Government while taking the purported executive decision, communicated to all the Secretaries by the Transport Commissioner, Haryana, Chandigarh vide memo/ order dated 30.03.2020, is found to be without any legitimate source of power or lawful authority and as such, resulted in the interference in the process for the grant of the impugned permits in favour of the private respondents in the writ petition.

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30. On point 'B' as well, the findings returned by the learned Single Judge warrant no interference. The order of the Supreme Court dated 21.01.2020 passed in Civil Appeal No.556 of 2020 (arising out of SLP (Civil) No.22800/2017)- The Haryana Cooperative Transport Society Ltd. & ors. Vs. State of Haryana & ors. reads as under:-

*“Applications for impleadment/intervention are allowed.
 Leave granted.*

These matters were heard on 13.10.2017 when this Court passed the following order:

“Having heard learned counsel for the parties, the order of status quo is modified to the following extent:

a) the respondent-State is at liberty to call for objections and offer hearing to the objectors in respect of the Draft Scheme of 2017 but shall not finalise the same.

b) The transporters who are continuing on the basis of 2016 Scheme shall be allowed to operate and if any permit has expired, the same shall be renewed in accordance with law.

If any transporter is eligible to obtain the permit in pursuance of the directions given by the High Court, his case shall be considered and shall not be refused on the ground that a new policy/scheme is coming.”

In response to the above order, the State Government has examined the matter at the highest level and it is stated across the Bar by the counsel for the State that the State Government has decided to withdraw the Draft Scheme of 2017 and all the dispensations afforded under that Scheme. In other words, the Draft Scheme of 2017, which was the subject matter of challenge in the present proceedings stands completely nullified. We accept this statement.

The State Government has sought permission to take lawful, permissible action under Section 102 of the Motor Vehicles Act, 1988 to cancel or modify the State Carriage Scheme 2016 by following the prescribed procedure under the law in order to remove all the defects therein.

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We find no reason to refuse this permission. The State Government may proceed in the matter in accordance with law after giving due opportunity to all concerned.

In view of the statement made on behalf of the State Government, referred to above, which we have accepted, nothing remains for consideration in these appeals. However, we make it clear that all future 3 actions be proceeded in accordance with law.

The appellant(s)/applicant(s) or any other eligible person will be free to make application(s) to the concerned authority, if already not made, for registration and for grant of permit within one week from today, and if so made, the competent authority may consider the same as per law expeditiously and in any case before 20th March, 2020.

If the appellants(s)/applicant(s) are aggrieved by any decision taken by the competent authority, it will be open to them to pursue such other remedies as may be permissible in law including under Section 100(2) of the Motor Vehicles Act, 1988.

In view of the above, nothing survives for consideration in these appeals. Accordingly, the appeals and pending applications, if any, are disposed of.” (Emphasis supplied)

31. Thus, on 21.01.2020 the State of Haryana sought permission of the Supreme Court to withdraw the draft 2017 scheme alongwith all dispensations afforded under that draft scheme. The sought permission was granted by the Supreme Court. Resultantly, in the words of the Supreme Court itself, the draft 2017 scheme stood completely nullified.

32. The Supreme Court further permitted the State to proceed under Section 102 of the Act to cancel/ modify 2016 scheme but only after following the process of law and also the principles of natural justice. The Supreme Court further directed that any other eligible person, which would include the

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appellants before it, would be free to apply to the concerned authority, if they had already not applied, for registration and grant of permit(s) but only within one week from the date of the afore quoted order.

33. Thus, after the passing of the afore quoted order the draft 2017 scheme ceased to exist and only the applicants who would apply within one week from the date of the afore quoted order were to be considered for the grant of permits, in accordance with law.

34. The private respondents in the writ petition submitted their applications alongwith the required demand draft of Rs.25,000/-, the details of which are as under:-

<i>Respondent No.</i>	<i>Date of application</i>	<i>Date of Demand Draft</i>	<i>Date of issuance of permit</i>
4.	18.03.2020	17.03.2020	13.04.2020
5.	18.03.2020	09.03.2020	10.04.2020
6.	31.03.2020	12.03.2020	10.04.2020
7.	18.03.2020	09.03.2020	10.04.2020
8.	18.03.2020	17.03.2020	10.04.2020
9.	29.01.2020	29.01.2020	10.04.2020
10.	18.03.2020	09.03.2020	10.04.2020
11.	20.03.2020	20.03.2020	10.04.2020
12.	18.03.2020	09.03.2020	10.04.2020
13.	18.03.2020	09.02.2020	10.04.2020
14.	18.03.2020	11.03.2020	10.04.2020
15.	18.03.2020	17.03.2020	29.04.2020
16.	31.03.2020	07.02.2020	10.04.2020
17.	18.03.2020	09.03.2020	10.04.2020
18.	18.03.2020	17.03.2020	10.04.2020
19.	01.04.2020	17.03.2020	24.04.2020
20.	18.03.2020	09.03.2020	10.04.2020
21.	20.03.2020	20.03.2020	10.04.2020

35. A perusal of the above table reveals that none of the private respondents in the writ petition had submitted complete applications within the window of seven days as granted by the Supreme Court through its afore

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quoted order. The applications being beyond the time granted by the Supreme Court were thus liable to be outrightly rejected.

36. Further, respondent Nos.6, 7, 8, 9, 12, 14, 18 and 22 in the original writ petition were applicants under the draft 2017 scheme. The draft 2017 scheme stood withdrawn on 21.01.2020. Therefore, no application under the draft 2017 scheme could have been considered thereafter. Thus, respondent Nos.6, 7, 8, 9, 12, 14, 18 and 22 in the original writ petition were illegally granted permits to ply their buses on the respective routes.

37. All the private respondents in the writ petition were granted temporary permits. Under the Act only 3 provisions deal with the grant of temporary permits and they are Sections 87, 99 and 104. The same are reproduced below for ready reference:-

“87. Temporary permits.—(1) A Regional Transport Authority and the State Transport Authority may without following the procedure laid down in section 80, grant permits, to be effective for a limited period which shall, not in any case exceed four months, to authorise the use of a transport vehicle temporarily—

(a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or

(b) for the purposes of a seasonal business, or

(c) to meet a particular temporary need, or

(d) pending decision on an application for the renewal of a permit,

and may attach to any such permit such condition as it may think fit:

Provided that a Regional Transport Authority or, as the case may be, State Transport Authority may, in the case of goods carriages, under the circumstances of an exceptional nature, and for reasons to be recorded in writing, grant a permit for a period exceeding four months, but not exceeding one year.

(2) Notwithstanding anything contained in sub-section (1), a temporary permit may be granted thereunder in respect of any route or area where—

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(i) no permit could be issued under section 72 or section 74 or section 76 or section 79 in respect of that route or area by reason of an order of a court or other competent authority restraining the issue 54 of the same, for a period not exceeding the period for which the issue of the permit has been so restrained; or

(ii) as a result of the suspension by a court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit in respect of that route or area, or there is no adequate number of such vehicles in respect of that route or area, for a period not exceeding the period of such suspension.

Provided that the number of transport vehicles in respect of which temporary permits are so granted shall not exceed the number of vehicles in respect of which the issue of the permits have been restrained or, as the case may be, the permit has been suspended

99. Preparation and publication of proposal regarding road transport service of a State transport undertaking.—(1) *Where any State Government is of opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road transport service, it is necessary in the public interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking, whether to the exclusion, complete or partial, of other persons or otherwise, the State Government may formulate a proposal regarding a scheme giving particulars of the nature of the services proposed to be rendered, the area or route proposed to be covered and other relevant particulars respecting thereto and shall publish such proposal in the Official Gazette of the State formulating such proposal and in not less than one newspaper in the regional language circulating in the area or route proposed to be covered by such scheme and also in such other manner as the State Government formulating such proposal deem fit.*

(2) Notwithstanding anything contained in sub-section (1), when a proposal is published under that sub-section, then from the date of publication of such proposal, no permit shall be granted to any person, except a temporary permit during the pendency of the proposal and such temporary permit shall be valid only for a period of one year from

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the date of its issue of till the date of final publication of the scheme under section 100, whichever is earlier.

104. Restriction on grant of permits in respect of a notified area or notified route.—*Where a scheme has been published under sub-section (3) of section 100 in respect of any notified area or notified route, the State Transport Authority or the Regional Transport Authority, as the case may be, shall not grant any permit except in accordance with the provisions of the scheme:*

Provided that where no application for a permit has been made by the State transport undertaking in respect of any notified area or notified route in pursuance of an approved scheme, the State Transport Authority or the Regional Transport Authority, as the case may be, may grant temporary permits to any person in respect of such notified area or notified route subject to the condition that such permit shall cease to be effective on the issue of a permit to the State transport undertaking in respect of that area or route.”

38. Under Section 87 of the Act temporary permits can be granted for a limited period not exceeding four months on special occasions like fairs, religious gatherings, seasonal business, temporary need and where applications of the applicants for renewal of a permit are pending. As per Section 87(2) temporary permits can also be granted where there is a restraint order by a Court or any other competent authority for plying of vehicles on the route in question.

39. Admittedly, the impugned temporary permits granted to the respondents in the writ petition were granted for a period of one year and that none of these permits have been granted for any of the eventualities covered under Section 87(1) and Section 87(2) of the Act.

40. A perusal of Section 99 of the Act reveals that a temporary permit for a maximum period of one year can be granted from the date of publication of a draft scheme till the publication of the final scheme under Section 100(3)

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of the Act. In the case in hand, temporary permits could have not been granted to the private respondents in the writ petition under Section 99 of the Act as on the date when temporary permits were granted to them there was no draft scheme in existence.

41. Similarly, temporary permits under Section 104 of the Act can be granted where, in pursuance to an approved scheme, no application for a permit has been made by the State Transport Authority in respect of any notified area or notified route. The order/ memo dated 30.03.2020, in terms of which the private respondents in the writ petition were granted temporary permits, does not reveal any consideration or deliberation in terms of provisions of Section 104 of the Act.

42. In the light of the above, no interference is called for in the findings recorded by the learned Single Judge and resultantly LPA No.475 of 2021 as also connected LPA Nos.476, 477, 480, 484 of 2021 and 468 of 2022 are dismissed.

44. All pending miscellaneous applications in the appeal(s) are also disposed of.

43. A copy of the order be placed on the files of connected cases.

(Deepak Sibal)
Judge

(Sukhvinder Kaur)
Judge

August 24, 2023
gk