

CWP-21656-2023

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2023:PHHC:128916

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-21656-2023

Date of decision : 05.10.2023

Kulroop Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Rajinder Sharma, Advocate
for the petitioner.

Mr.Rohit Kapoor, Advocate
for respondent no.5.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 21.08.2023 (Annexure P-10) passed by respondent no.2 vide which the permit of the petitioner has been cancelled.

2. Learned counsel for the petitioner has submitted that one of the factors taken into consideration by the State Transport Appellate Tribunal, Punjab as noticed at page 83 of the paper book while allowing the appeal of the respondent no.5 was that the partners of respondent no.5 did not have any route permit earlier in their names. To controvert the said observation, reference has been made by the learned counsel for the petitioner to the various orders dated 23.12.2021 (Annexures P-5, P-6 and P-7) to show that the partners of respondent no.5 firm did have permits in their favour. It is further submitted that the said observation is thus, perverse and against the record and on the said ground alone, the impugned order deserves to be set

aside.

3. Learned counsel appearing for respondent no.5 has submitted that respondent no.5 has better merits than the petitioner and has submitted that the relevant date for consideration is the date of the application and on the date of the application, the partners of respondent no.5 or respondent no.5 did not have any permit. It is further submitted that even if respondent no.5 or his partners had been granted permits earlier with respect to other routes, the same would not be a ground for disqualification.

4. During the course of the arguments, learned counsel for the petitioner as well as learned counsel for contesting respondent no.5 are *ad idem* that the impugned order dated 21.08.2023 be set aside and both the parties be permitted to raise all the pleas on the abovesaid aspect as well as other aspects, which are available to them in law and on the merits of the case, before respondent no.2 and respondent no.2 be directed to pass a fresh order after considering the said arguments.

5. Keeping in view the above said facts and circumstances and also the joint statement made by learned counsel for the petitioner and respondent no.5, the present petition is partly allowed and the impugned order dated 21.08.2023 is set aside and the matter is remanded to respondent no.2 for a fresh decision. The petitioner and respondent no.5 are directed to appear before respondent no.2 on 11.10.2023. Respondent no.2 would consider the appeal afresh and after taking into consideration the submissions made by both the contesting parties and after hearing all the parties concerned, would pass a fresh order, in accordance with law as expeditiously as possible, preferably within a period of two months from 11.10.2023.

6. It is made clear that this Court has not opined on the merits of

the case and respondent no.2 would decide the appeal afresh, after considering all the points which have been raised by the contesting parties, in accordance with law.

(VIKAS BAHL)
JUDGE

October 05, 2023
Davinder Kumar

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