

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

OWP No. 816/2006

J&K SRTC

.....Appellant(s)/Petitioner(s)

Through: Mr. Ajay Kumar Gandotra, Advocate.

vs

Secy. Ministry of Railways and others

..... Respondent(s)

Through: Mr. Vishal Sharma, DSGI.

Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

27.08.2024

ORAL

1. The instant petition has been filed by the petitioner being J&K State Road Transport Corporation through its Managing Director (For short 'corporation') under Article 226 of the Constitution for seeking following reliefs:
 - a. Writ of certiorari thereby quashing impugned Order No. 4-RPF/Misc./FZR/06 dated 31.10.2006 issued by respondent No. 4 on the telephonic instruction/direction of respondent No. 3.
 - b. Writ of mandamus thereby commanding the respondents to allow/permit the petitioner corporation to operate/ply its buses from the Railway Station terminal as were being already operating from the said terminal/earmarked space prior to the issuance of the order impugned;

- c. Any other or further writ, order or direction, which this Hon'ble Court in the fact and circumstance of the case as this Hon'ble Court may deem proper also be passed.
2. The facts under the shade and cover of which the aforesaid reliefs have been prayed and as stated in the petition are that the corporation is a body corporate having been established in the year 1976 with an object of providing efficient, adequate, economical and properly coordinated system of road transport services in the erstwhile State of Jammu and Kashmir.
3. It is being further stated that the Government of India extended the railway services to the erstwhile State of Jammu and Kashmir in the year 1972, as a consequence whereof a railway station came to be established at Jammu wherein, in consultation with the Government of Jammu and Kashmir, certain spaces were allotted within the railway station premises for establishment of booking counters as also for parking of vehicles especially the vehicles carrying passengers to and fro from Kashmir valley and pilgrims of Shri Mata Vaishno Devi at Katra in furtherance whereof the Railway Authorities provided a space to the corporation whereupon allied infrastructure was raised for the said purpose.
4. It is being further stated that on account of an issue having got raised pertaining to the parking of vehicles of the corporation within the premises of the railway station adjacent to the booking counters set up by the corporation, with the Railway Authorities, a meeting came to be

convened in order to resolve the said issues in the office of respondent No. 4 herein on 11.10.2006, which meeting came to be attended by the Divisional Traffic Manager of the Railway Department, Additional SP Crime and Railways, Jammu as also the General Manager of the Corporation besides the General Manager of Tourism Development Corporation and in the said meeting, it came to be unanimously decided that two vehicles of the corporation will be parked in front of the Tourist/SRTC Office at the earmarked place at the railway station and after departure of the said vehicles therefrom next three vehicles will be permitted to park again for the convenience of the passengers resolving further that the main road/path right from the entrance point of the railway station to the main building of the railway station will be kept clear of any obstruction and no vehicle whatsoever will be permitted to stop there in order to avoid congestion and inconvenience to the passengers.

5. It is being further stated that despite the aforesaid decisions taken in the aforesaid meeting on 11.10.2006, the corporation came across with a communication bearing No. 4-RPF/Misc./FZR/06 dated 31.10.2006 addressed by the respondent No. 4 to the Assistant Security Commandant, Railway Protection Force providing therein that no bus beyond the diversion point for Matadors/Tempos/Taxis/Buses etc. be permitted in the railway station, as a result whereof, the buses of the corporation permitted to be parked at the location provided in the minutes of meeting dated 11.10.2006 were prohibited, thus depriving

the corporation from utilizing the earmarked space inasmuch as to provide the bus service to the passengers thereof.

6. The corporation has questioned the communication dated 31.10.2006 (Supra) in the instant petition, *inter alia*, on the ground that the same is illegal having been issued arbitrarily without jurisdiction and authority of law and the same deprives the corporation of its legitimate business having resulted in infringement of fundaments rights of the corporation enshrined in Articles 14, 19 and 21 of the Constitution of India.
7. **Reply** to the petition has been filed by the respondents, wherein the petition is being opposed on the premise that Jammu Tawi Railway Station is a classified “A” Class model station having been established for achieving high standard of passengers’ amenities.
8. It is being further stated that the restriction of parking of buses in the main concourse of the railway station is aimed at to reduce the congestion and to avoid security related risk to the passengers.
9. It is being further stated that average 29,000 passengers avail train facilities every day which includes non-pilgrimage passengers as well and in order to extend facilities to the passengers, the Railway Authorities allowed opening of booking counters and parking of vehicles for carrying the passengers from the railway station to Kashmir Valley and to Katra and that with the passage of time and for providing better security service to the passengers inasmuch as to

avoid traffic congestion, it came to be decided that buses will not be allowed beyond the opening terminal railway point.

10. It is further stated that the communication under challenge dated 31.10.2006 does not jeopardise any of the rights of the corporation and that the corporation has no right to park buses in the railway station, though in order to avoid long distance, buses were earlier allowed to park at entry terminal point of the railway station.

11. It is further stated in the objections that the pilgrimage buses have been allowed at the entry terminal point of the railway station where adequate parking space has been provided for parking of buses which is adjacent to the railway platform, reiterating that the buses, however, cannot be allowed to be parked near the booking counters, as the parking of the buses therein lead to traffic jam as the same in the process would defeat the security arrangements laid down for the safety of the passengers from time to time.

Heard learned counsel for the parties and perused the record.

12. Having regard to the respective pleadings of the parties, the moot question that emerges for consideration of this Court in the instant petition would be as to whether the corporation has got a locus in law to maintain the instant petition.

13. Before proceeding to address to the said question, it would be advantageous and appropriate to refer to the position of law relating to the doctrine of locus standi laid down by the Apex Court in a case

titled as “**Vinoy Kumar vs. State of UP and others**” reported in **2001**

(4) SCC 734 wherein at para 2 following has been held:

“2. Generally speaking, a person shall have no locus standi to file a writ petition if he is not personally affected by the impugned order or his fundamental rights have neither been directly or substantially invaded nor is there any imminent danger of such rights being invaded or his acquired interests have been violated ignoring the applicable rules. The relief under Article 226 of the Constitution is based on the existence of a right in favour of the person invoking the jurisdiction. The exception to the general rule is only in case where the writ applied for is a writ of habeas corpus or quo warranto or filed in public interest. It is a matter of prudence, that the court confines the exercise of writ jurisdiction to cases where legal wrong or legal injuries are caused to the particular person or his fundamental rights are violated, and not to entertain cases of individual wrong or injury at the instance of third party where there is an effective legal aid organization which can take care of such cases. Even in cases filed in public interest, the court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury or illegally burden is threatened and such person or determined class of persons is, by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief.”

14. Keeping in mind the position of law laid down by the Apex Court in the judgment (Supra) inasmuch as the case set up by the corporation in the instant petition, it is an admitted fact that the corporation came to be permitted by the respondent-Railway Authorities to park the buses/vehicles adjacent to its booking counter in terms of minutes of the meeting dated 11.10.2006. A perusal of the said minutes of the

meeting manifestly tends to show that the decision taken in the meeting have had to remain in place for 10 days of time, whereafter the said decision have had to be reviewed. Record reveals that the respondents-Railway Authorities have reviewed the said decision and consequently in terms of impugned communication dated 31.10.2006 prohibited the parking of buses of the corporation within the railway station premises.

15. In view of the said factual position obtaining in the matter, it cannot by any stretch of imagination be said that the respondents-Railway Authorities have issued the impugned communication either without any competence and jurisdiction or in breach and violation of any of the rights of the corporation, much less those recognized by law. The decision as contained in the impugned communication dated 31.10.2006 seemingly has been taken by the respondent-Railway Authorities for the convenience of the passengers and in respect of the security scenario of the railway station. Under these circumstances, the corporation cannot be said to have any right recognized by law, to question the impugned communication dated 31.10.2006 while invoking the extraordinary writ jurisdiction of this Court enshrined under Article 226 of the Constitution more so in view of the principles of law laid down by the Apex Court in the judgment of **Vinoy Kumar Vs. State of UP and others** (Supra).
16. Viewed thus, what has been observed, considered and analysed hereinabove, it can safely be said that the corporation has no locus

standi to maintain the instant petition. The petition thus is found to be without any merit and **is accordingly dismissed**. However, the dismissal of the petition shall not come in the way of the respondent-Railway Authorities to address to the grievance of the corporation, if warranted and permissible in accordance with law and applicable rules.

(JAVED IQBAL WANI)
JUDGE

Jammu
27.08.2024
Sahil Padha

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No.

