

2025:PHHC:049211



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

CWP-16127-2000 (O&M)
Date of decision : 09.04.2025

THE CHANDIGARH TOURIST BUS OPERATORS ASSOCIATION
(REGD.) AND OTHERS

...Petitioners

Versus

MUNICIPAL CORPORATION, UNION TERRITORY, CHANDIGARH
AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. G.S. Bal, Senior Advocate assisted by
Ms. Lovepreet Kaur, Advocate
and Ms. Gurneet Kaur, Advocate
for the petitioners.

Mrs. Madhu Dayal, Advocate
for respondents No.1 and 2.

Mr. Ashish Rawal, Additional Standing Counsel,
U.T., Chandigarh assisted by
Ms. Shubreet Kaur, Junior Panel Counsel, U.T., Chandigarh
for respondents No.3 to 5.

HARSH BUNGER, J.

Prayer in the present petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 07.04.2000 (Annexure P-4) passed by the O.S.D. for Chief Engineer, Municipal Corporation, Chandigarh and order dated 17.05.2000 (Annexure P-7) passed by the Commissioner, Municipal Corporation, Chandigarh.

A further prayer has been made for quashing of sub Rule 3 of Rule 200 of the Chandigarh Motor Vehicle Rules, 1990.

2. On an earlier occasion, the petitioner had filed **CWP No. 7868 of 2001**, which was heard and decided along with **CWP No. 5658 of 1999**, wherein a Coordinate Bench of this Court had crystallized the issue in paragraph 1 of the order dated 11.09.2012, which reads as under:

“(1) This order shall dispose of CWP Nos 5658 of 1999 ;and 7868 of 2001 wherein the petitioners have sought a direction to the Chandigarh Administration to earmark places for parking of the buses of private operators to whom Contract Carriage Permits and All India Tourist Permits have been granted. There is an additional prayer made in CWP No7868 of 2001 that the parking sites should directed to be allotted to owners of the buses having contract carriage permits as per the lists maintained by the State Transport Authority, UT Chandigarh.”

2.1 Both the aforesaid writ petitions were decided by the Coordinate Bench of this Court vide order dated 11.09.2012, wherein it was observed as under:-

“(5) It is apparent from the above-stated plea(s) taken by the official respondents that as against approximately 140 buses having Contract Carriage Permits and All India Tourist Permits, parking sites for 86 plus 51 buses have been earmarked.

(6) The respondent-Authorities are thus conscious of their duties in terms of Section 117 of the Motor Vehicles Act, 1988 read with the provisions contained in the Chandigarh Motor Vehicle Rules, 1990 whereunder they are obligated to earmark/create parking places for public service vehicles in proportion to the permits as and when granted. Suffice it would be to observe and direct that if there is any deficiency in the parking places as of now, the respondents shall take necessary steps to create/provide additional parking place in accordance with law. Similarly, the authorities are required

and are directed that the earmarked parking places for afore-stated buses are not encroached upon or occupied by other vehicles as it always leads to chaos and congestion in public and market places which is detrimental to public convenience.

(7)The question as to whether the UT Chandigarh Administration/Municipal Corporation are entitled to levy parking fee on the public service vehicles having Contract Carriage Permit is not the subject matter of challenge in these writ petitions. It is stated by Mr. Sanjiv Ghai, learned counsel for the Municipal Corporation that levy of parking fee is under challenge before this Court in CWP No.16127 of 2000 which is not listed along with these cases.

(8) Consequently and for the reasons afore-stated, both these writ petitions though partly infructuous, are disposed of with the directions issued hereinabove for creation of additional parking place, if so required, keeping in view the increased strength of permits and to make available the notified parking places without any obstruction. The disposal of these writ petitions shall be without prejudice to the right of the permit-holder(s) against levy of parking fee which is already the subject matter of challenge CWP No. 16127 of 2000.

*(9). Ordered accordingly. **Dasti.**”*

3. On 20.10.2016, the following order was passed by this Court in the present writ petition :-

“Learned counsel for the petitioners submitted that he does not wish to press prayer No.(ii) regarding challenge to the vires of rule 200(3) of the Chandigarh Motor Vehicle Rules, 1990.

As the vires of the Rules is no more under challenge, the matter be listed as per roster before learned Single Judge.”

4. In view of the above, the primary issue involved in the present writ petition pertains to the levy and collection of parking fee.

5. Learned senior counsel for the petitioners submits that the petitioners, who are members of the Chandigarh Tourist Bus Operators

Association and hold Contract Carriage as well as All India Tourist Permits, are operating private tourist buses within the Union Territory of Chandigarh. It is contended that despite the statutory mandate under Section 117 of the Motor Vehicles Act, 1988, read with Rules 195 and 196 of the Chandigarh Motor Vehicles Rules, 1990, the Administration has failed to provide proper and adequate parking place(s) or bus stand(s) for such vehicles. Learned senior counsel further submits that, pursuant to the directions issued by this Court in CWP No. 5658 of 1999, the District Magistrate had notified certain temporary parking sites; however, against approximately 143 buses, space was available for only about 60–65 buses. Subsequently, vide communication dated 07.04.2000, the Chief Engineer provisionally permitted parking at the said sites on payment of ₹500/- per bus per month, which was later affirmed by the Municipal Corporation through its resolution dated 17.05.2000. It is vehemently argued that the aforesaid levy is wholly unjustified and unsustainable in law, as no proper bus stand(s)/parking facility or requisite amenities, as contemplated under Chapter X of the Chandigarh Motor Vehicles Rules, 1990, were ever provided. Thus, the imposition of parking charges is arbitrary, excessive, and without authority of law.

6. On the other hand, learned counsel appearing for the Union Territory, Chandigarh, submits that the matter is under active consideration of the authorities and they are in the process of identifying a suitable location for bulk parking at a single site. As regards levy and collection of parking fee is concerned, it is averred that the same is appropriate considering the facility of parking made available by the authorities.

7. Heard.

8. At the outset, it would be apposite to refer to Section 117 of the Motor Vehicles Act, 1988 (for short 'the 1988 Act') and also to ascertain relevant provisions of the Chandigarh Motor Vehicle Rules, 1990 (for short 'the 1990 Rules'), which are as under :-

Section 117 of the 1988 Act:

"117. Parking places and halting stations -- The State Government or any authority authorised in this behalf by the State Government may, in consultation with the local authority having jurisdiction in the area concerned, determine places at which motor vehicles may stand either indefinitely or for a specified period of time, and may determine the places at which public service vehicles may stop for a longer time than is necessary for the taking up and setting down of passengers."

Rule 196. Parking place:-

Subject to provisions of rule 201, a District Magistrate, may, subject to the control of the State Transport Authority concerned and after consultation with the Superintendent of Police and the local authority having jurisdiction in the area concerned, make orders appointing parking places and stands for motor vehicle under section 117:

Provided that no place which is privately owned shall be appointed as a parking place or a stand except on application by or with the written consent of the owner."

"Rule 201. Consideration governing the location of stands.-

In deciding whether to grant permission for the use of any place as a stand, the District Magistrate shall have regard to the following matters, namely :-

- (a) the interests of the public generally and the efficient organization of transport system ;*
- (b) the suitability of the site from the point of view of traffic control ;*
- (c) the avoidance of annoyance to persons living or having property in the locality ;*
- (d) the suitability of the site in relation to other stands in the same town; and*
- (e) any other consideration that may appear to be relevant.”*

202. Conditions applicable to all stands.-

(1) Every order permitting a place to be used as a stand under rule 196 shall be subject to the following conditions, namely :-

- (a) that the land and building of the stand shall at all times be kept clean and in a good state of repair ;*
- (b) that the stand shall be administered in a seemly and orderly manner ;*
- (c) that the person, transport company, transport firm, transport society or authority permitted by the District Magistrate to use the place as a stand shall take all possible precautions to ensure that no breach of the Act or of these rules is committed in respect of any vehicle entering or leaving or halting at the stand ;*
- (d) that a board shall be set up in a conspicuous position at the stand showing the fees payable and that the full amount of fees due from the owners and drivers of vehicles shall be charged neither more nor less ;*
- (e) that weighing machines shall be maintained at the stand for determining the weight of the goods to be carried by passengers in public vehicles or in the goods carriages ; and*

(f) that local authority or person authorised to administer the stand shall :-

(i) maintain such records as the District Magistrate may from time to time direct ;

(ii) employ such staff at the stand as may be specified in the order made by the District Magistrate ;

(iii) provide waiting rooms for the largest number of passengers that may reasonably be expected to use the stand at any one time including separate accommodation for woman ;

(iv) provide suitable lavatories for both sexes ;

(v) provide rest rooms for the drivers and conductors of the vehicles regularly kept at the stand ;

(vi) provide an adequate supply of drinking water for the passengers, drivers and all persons likely to be employed at the stand ;

(vii) provide covered accommodation or other form of shelter for all the vehicles regularly kept at the stand or for such percentage of those vehicles as the District Magistrate may specify ;

(viii) provide for the illumination of the stand at night ;

(ix) provide in a separate portion of the stand facilities for washing and cleaning vehicles and for executing ordinary repairs ;

(x) provide toilet and refreshment facilities in keeping with the appropriate requirements of privacy and hygiene; and

(xi) provide cloak-rooms containing wash-basins, water-taps for women passengers.

(2) With the approval of the State Transport Authority, the District Magistrate may attach to the order any other condition that may seem to him to be necessary to

secure the efficient administration of the stand or otherwise to be in the public interest.”

8.1 A perusal of the above extracted provisions leaves no manner of doubt that the authorities are required to identify suitable places for creation, maintenance and management of parking places and also to provide various amenities therein.

9. Coming to the case in hand, vide order dated 07.04.2000 (Annexure P-4), petitioner Nos.5 and 6 were allowed provisional permission for parking the buses @ Rs.500/- per bus per month, in Sector 45-D, Chandigarh. It was also stated therein that the matter as regards the final decision for fixing the monthly charges was pending consideration before the Municipal Corporation and the said provisional permission was granted subject to the final decision of the Corporation.

9.1 Further, the resolution dated 17.05.2000 (Annexure P-7) passed by the Municipal Corporation, Chandigarh in respect of levy of parking charges to private buses, reads as under :-

“Considered and resolved that the Municipal Corporation, Chandigarh shall levy charges @ Rs.500/- per bus, per month as parking charges of private buses within municipal limits of the Corporation.

Further resolved that a back reference will be made to the Chandigarh Administration to review its decision vide which sites for the parking for tourist buses in Chandigarh have been designated and also to examine the possibility of identifying only one site for the parking of all the private buses where all the facilities can be provided for the drivers and conductors of the buses in order to avoid congestion and insanitary conditions in the city, be and is hereby approved.”

10. Apparently, vide Resolution dated 17.05.2000 (Annexure P-7), the matter had been sent back to Chandigarh Administration to review its

decision vide which sites for the parking for tourist buses in Chandigarh have been designated and also to examine the possibility of identifying only one site for the parking of all the private buses where all the facilities can be provided for the drivers and conductors of the buses in order to avoid congestion and insanitary conditions in the city.

11. However, the statement made by learned State counsel that the authorities are still in the process of identifying suitable parking sites; indeed reflects a regrettable state of affairs, particularly when a similar issue had already been adjudicated by a Coordinate Bench of this Court as far back as in 2012 and still, no steps have been taken.

12. Be that as it may, considering the afore-mentioned facts and circumstances, I deem it appropriate to dispose of the present writ petition with the following directions:-

(i) Let the issue concerning identification and designation of Parking Places / sites or Bulk Parking area(s) for facilitating parking of Tourist Buses etc. by charging appropriate Parking Fee be considered by a Committee consisting of:

- (a) District Magistrate*
- (b) State Transport Authority*
- (c) Superintendent of Police (Traffic)*
- (d) Joint Commissioner, Municipal Corporation Chandigarh.*

(ii) The above constituted Committee while identifying / designating such Parking Places / sites or Bulk Parking area(s), must make proper assessment of the parking needs for the next 25 years so that requisite parking facilities are provided;

(iii) The above constituted Committee shall also decide as regards the other facilities to be provided at such Parking Places / Sites, keeping in view Rule 202 of the Chandigarh Motor Vehicle Rules 1990;

(iv) *The above constituted Committee shall also consider and levy appropriate parking charges of private / Tourist buses, keeping in view the facility to be provided at such parking places/sites.*

13. Further, since the issue of providing of parking places/sites has been pending for quite some time now and it is not disputed that the authorities have been providing parking places/facilities for the tourist buses etc., and also to settle past issues of levying appropriate parking charges leviable upon private/tourist buses within Chandigarh municipal limits, I deem it just, fair and proper to direct that the following parking charges be levied till today:

<i>S.No.</i>	<i>Period Commencing</i>	<i>Period ending</i>	<i>Parking Charges to be levied</i>
<i>1</i>	<i>01.04.2000</i>	<i>31.03.2005</i>	<i>@ Rs. 200/- per bus per month</i>
<i>2</i>	<i>01.04.2005</i>	<i>31.03.2010</i>	<i>@ Rs. 300/- per bus per month</i>
<i>3</i>	<i>01.04.2010</i>	<i>31.03.2015</i>	<i>@ Rs. 400/- per bus per month</i>
<i>4</i>	<i>01.04.2015</i>	<i>31.03.2026</i>	<i>@ Rs. 500/- per bus per month</i>

13.1 It is further directed that the parking charges leviable w.e.f. 01.04.2026 shall also be decided by the above Constituted Committee.

14. Let the aforesaid exercise be completed by the Committee before 31.03.2026.

15. All pending application/s, if any, shall also stand closed.

April 09, 2025
gurpreet

(HARSH BUNGER)
JUDGE

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