

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

Date of Decision : 11-03-2025

.....Respondent(s)

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CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rohit Sud, Advocate
for the petitioner in CWP-15562-2023 and
for respondent No.6 in CWP-17299-2023 and
for respondent No.4 in CWP-23910-2023.

Mr. Ramandeep Singh, Advocate
For the petitioner in CWP-17299-2023.

Mr. A.M Punchhi, Advocate
for the petitioner in CWP-23910-2023 and for
respondent No.5 in CWP-15562-2023.

Mr. T.P.S Walia, DAG Punjab

Mr. Vaibhav Sehgal, Advocate
for the respondent No.5 in CWP No.17299 of 2023 and
for respondent No.3 in CWP-23910-2023.

HARSIMRAN SINGH SETHI, J. (Oral)

1. Present are the bunch of three writ petitions of which details are mentioned in the heading, involve common question of law in the context of common set of facts and thus they are being decided by a common order.
2. In the present bunch of petitions, the challenge is to the order passed by the State Transport Appellate Tribunal dated 07.07.2023.
3. Further, the challenge in the aforementioned order is by M/s Banda Bahadur Highways Pvt. Ltd., whose claim was considered for allotment of permit by the authorities but was not found meritorious enough to be granted the same which decision of the authorities has been upheld by the Tribunal. Certain facts may be noticed so that, the adjudication is done in a smooth manner.
4. The respondent-State issued a public notice on 19.10.2021 inviting applications for allotment of permits for operating the buses. The issue in the present petition relates to the route mentioned in the Public Notice at Serial No.144 i.e. Ghaggar Bridge-Ludhiana via Rajpura, Sirhind, Gobindgarh, Khanna, Doraha and Sahnewal. On the said route, four regular stage carrier permits were to be granted to operate six return trips.
5. On the invitation of the applications for the aforementioned route, six applicants raised their claim for the grant of permit including the petitioners namely New Patiala Bus Service as well as M/s Banda Bahadur

Highways Pvt. Ltd. After receiving the applications, the Regional Transport Authority (RTA) in its meeting held on 15.12.2021 decided that out of four permits to be issued, two permits will be given to the State Transport Undertaking and remaining two will be given to the private operators. While deciding the entitlement/claim, qua two permits which were to be given to the private operators, the said competent authority decided that one permit should be given to the existing operator and one should be given to the fresh(new entrant). By applying the said formula, after evaluating the claim of the respective claimants, the permits were allotted to one Sukhjinder Kaur as a new entrant and M/s New Patiala Bus Service was granted the permit under the existing operators.

6. Feeling aggrieved against the said decision by RTA, an appeal No.333 of 2022 was preferred by existing operator namely M/s Banda Bahadur Highways Pvt. Ltd. raising certain objections to the method of evaluation of the candidates was done qua the two permits to be filled from the private operators and one Subhash Kumar, who was also an new entrant but was not found entitled for the permit, also filed an appeal No.39 of 2023 before the Tribunal stating that he was better suited for the grant of permit.

7. Both the appeals came up for consideration before the State Transport Appellate Tribunal and were decided by two separate orders dated 07.07.2023. The appeal filed by one new entrant Subhash Kumar was accepted and the objection raised by him is that the benefit of permit in favour of New Patiala Bus Service has wrongly been given as, the said operator was not only tax defaulter but the application dated 18.11.2021 had been made by a person not authorised i.e application was filed by one Mr.

Parminder Singh on behalf of company and permit authority letter is sanctioned in favour of Mr. Gurinder Singh who was not signatory to the application and self declaration which is not applicable in the eyes of law.

8. After accepting these two contentions, the permit in favour of the existing operator New Patiala Bus Service was cancelled by the Tribunal and the same was allotted in favour of the new entrant Subhash Kumar. Appeal filed by M/s Banda Bahadur was dismissed by the Tribunal.

9. It may be noticed that the new entrant Sukhjinder Kaur who was the other allottee, had never lifted the permit within the time-frame and the same was lying vacant but no decision was taken by the Tribunal with regard to the said permit.

10. Against the orders dated 07.07.2023 passed by the Tribunal, the present bunch of petitions have been filed raising certain grievances. The writ petition which has been filed by M/s Banda Bahadur Highways Pvt. Ltd., the grievance raised is that once there were six applicants who were to be considered for the grant of two permits to be given to the private operators, the same could not have been bifurcated between the old operators and the new entrants.

11. The further prayer of the M/s Banda Bahadur Highways Pvt. Ltd. is that the permit which was allotted to new entrant namely Sukhjinder Kaur, the same should be allotted to the said applicant.

12. The writ petition which has been filed by New Patiala Bus Service is that the objection of the applicant Subhash Kumar is that the application of the New Patiala Bus Service has wrongly been taken into consideration as the said entity was tax defaulter and the application seeking

permit was made by unauthorised person, has wrongly been accepted as both the issues which have been accepted by the Tribunal are non-existent hence, the cancellation of the permit in their favour should be set aside and they should be allowed to operate the bus services as the permit had already been made operational.

13. It may be noticed that while issuing notice of motion, the order dated 07.07.2023 passed against New Patiala Bus Service cancelling their permit was stayed and New Patiala Bus Service is operating the permit even as of now and the order passed which was issued in favour of Sukhjinder Kaur is still lying vacant.

14. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

15. The first argument which needs to be dealt with, as raised by M/s Banda Bahadur Highways Pvt. Ltd. is whether, the grant of two permits to the private operators, could have been bifurcated by the competent authority so as to grant one permit to the new entrant and another one to the existing operator.

16. It may be noticed that the competent authority is not only to evaluate the merit and eligibility of each applicants, but has also to ensure that permits are granted in a manner that serves the general public so as to give the employment. The authority concerned has stated that the existing operators already have their buses plying and they might be more experienced but in case, all the permits are issued on the basis of experience, new blood cannot be infused into transport industry and the same will also

be contrary to the public policy as the chance of employment/ensuring descent livelihood to the new entrant into the transport industry is violated.

17. The said decision taken by the authority concerned once, has not been challenged on malafides to contend that the same was only taken to oust the particular existing operator, needs no interference. As a genuine decision has been taken by the competent authority that the chance should be given to the existing operator and the new entrant so as to have a level playing field, same needs to be accepted. The argument that the same should have been mentioned in the advertisement, cannot be a ground to challenge the decision. Once, the decision has been taken by the competent authority in this regard, which is bona fide and a due reason has been given for the said evaluation, the same cannot be treated as arbitrary or illegal in the facts and circumstances of the present case especially when the claim of M/s Banda Bahadur Highways Pvt. Ltd. has been construed and evaluated but New Patiala Bus Service is found more meritorious to be granted permit.

18. Further, it may be noticed that the petitioner M/s Banda Bahadur Highways Pvt. Ltd. challenged the selection for the grant of permit in favour of New Patiala Bus Service by filing an appeal No.333 of 2022 which was withdrawn by them qua the said operator. Once, the appeal against New Patiala Bus Service was withdrawn by M/s Banda Bahadur Highways Pvt. Ltd. hence, the prayer that a fresh evaluation should be made, cannot be accepted. Once, a particular right has already been surrendered by M/s Banda Bahadur Highways Pvt. Ltd. in terms of New Patiala Bus Service, the same cannot be agitated again by filing the present writ petition.

19. Qua the plea taken by petitioner New Patiala Bus Service for cancellation for the permit in favour of the said applicant by the Tribunal, it has come on record that with regard to the objections raised that Gurinder Singh was not authorised to represent New Patiala Bus Service so as to file an application, an authority letter dated 02.04.2021 (Annexure P-11) has been placed on record. The said authority letter has not been taken into consideration by the Tribunal while passing order dated 07.07.2023. A bare perusal of the said authority letter would shows that Gurinder Singh was duly authorised by New Patiala Bus Service for not only attending the office of the Regional Transport Authority, Jalandhar in the matter of renewal of permit/time-table but for also the new permit which has to be taken as a authority letter given to the said Gurinder Singh.

20. With regard to the non-payment of taxes, the petitioner New Patiala Bus Service has placed on record the order dated 20.12.2021 (Annexure P-12) where, the State authorities have given a time-frame for depositing the dues. Once, as per the said letter, the dues were to be paid by a particular date, the pendency of the said dues cannot be treated as a default as the time-frame still existed to deposit the said dues keeping in view the decision of the State Government. The said letter has also been ignored by the Tribunal while passing the order holding that the application holding was not in accordance with law or the said entity was not eligible to seek permit.

21. Keeping in view the totality of the circumstances, the cancellation of the stage carriage permit which was further issued in favour of New Patiala Bus Service by the Appellate Tribunal is set aside.

22. Now the question arise, who two applicants needs to be given the permit.

23. The factual position which exists as of now is that initially the authorities found one Sukhjinder Kaur and New Patiala Bus Service as being entitled for the grant of permit. Sukhjinder Kaur has not lifted the permit which is lying vacant. The permit which was initially granted to M/s New Patiala Bus Service was set aside to be granted to Subhash Kumar but the factual position is that only one permit is being operated as of now i.e. by New Patiala Bus Service and the other one is lying vacant as the order granting permit to one new entrant Subhash Kumar has not been implemented by the State.

24. Keeping in view the totality of the circumstances, the permit which has been lying vacant and the same has not been lifted by Sukhjinder Kaur be allowed in favour of Subhash Kumar to be operated as per the orders passed by the Appellate Tribunal. As the order of Tribunal cancelling the permit in terms of New Patiala Bus Service has been set aside, they will continue to operate the said permit.

25. The present bunch of petitions are disposed of in above terms.

26. Photocopy of this order be placed on the files of other connected cases.

27. Pending application, if any, also stands disposed of.

11-03-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO