

(20) The aforementioned submission made by the learned counsel would not survive for consideration as a sum of Rs. 41,377 due to the petitioner for the period from 29th March, 2000 to 31st March, 2005 stand paid to him, in the pay scale of Secretary Market Committee. The aforementioned fact is clear from the perusal of order Annexure R-2/1 and para 13 of the written statement filed by respondent Nos. 2 and 3.

Conclusion :

(21) In view of the above, writ petition fails and the order dated 23rd November, 2004 (P-8) reverting the petitioner from the post of Secretary, Market Committee to that of Assistant Secretary, is upheld. On account of some controversial issues having been raised, we leave the parties to bear their own costs.

R.N.R.

Before Vijender Jain, C.J. & Mahesh Grover, J.

GURNAM SINGH & OTHERS,—Petitioners

versus

STATE OF PUNJAB AND OTHERS,—Respondents

C.W.P. No. 8233 of 2005

28th September, 2007

Constitution of India, 1950—Art. 226—State Transport Authority Tribunal (STAT), a quasi judicial authority, observing curtailment/diversion/extension of routes not in public interest—Instead of taking any remedial measures, State & its functionaries, accepting curtailment/diversion/extension of routes of private operators—PIL filed—One of petitioners a private operator—Proceedings clearly stemming from personal interest—However, Court cannot shirk its responsibility once an infirmity is brought to its notice—Respondents directed to take remedial measures in accordance with observations made by STAT.

Held, that the genesis of the present proceedings is clearly stemming from personal interest of the rival operators amongst whom there is always

a keen contest to corner the most lucrative route which can fetch fruitful returns for them.

(Para 7)

Further held, that we are surprised at the attitude of the State Government because once the STAT, which, as a quasi-judicial authority, had observed that the curtailment/diversion/extension of the routes was against public interest, then it became the duty of the concerned authorities to address themselves to the situation and take remedial measures to remove the problems. Instead of taking any steps, the State and its authorities chose to slumber on; abandoning the interest of the public at large and slyly acquiescing to the interest of the private operators. The State should have discharged its duty by rectifying the position after addressing itself to the concerns of the residents of the area.

(Paras 9 & 10)

S.S. Toor, Advocate, for the petitioners.

A.G. Masih, Senior Deputy Advocate General, Punjab, for respondents No. 1 to 4

H.S. Sawhney, Senior Advocate with B.S. Giri, Advocate, for respondents No. 5 to 11.

VIJENDER JAIN, CHIEF JUSTICE

(1) The petitioners, in this petition under Articles 226 and 227 of the Constitution of India, have sought quashing of order dated 5th March, 2004 (Annexure P2, which has been described as the proceedings of the meeting qua Item No. 6) passed by the Additional State Transport Commissioner, Punjab (respondent no. 3) whereby the application filed by respondent no. 5-Sukhminder Singh for curtailment/diversion/extension of the route for which he was holding a mini bus permit No. 1079/MB/R/03 with four return trips daily was accepted. They have also prayed that order dated 4th August, 2004 (Annexure P3) passed by the State Transport Appellate Tribunal, Punjab (hereinafter described as 'the STAT') *vide* which the revision petitions preferred against cumulative order dated 5th March, 2004 of respondent no. 3 have been dismissed being time barred,

be quashed. Still further, the petitioners have made a prayer that Rule 122 of the Punjab Motor Vehicle Rules, 1989 be declared as *ultra vires* to the provisions of the Motor Vehicles Act, 1988.

(2) The petitioners have filed the present petition purportedly as public interest litigation by styling themselves as the residents of the areas, who were affected by the curtailment/diversion/extension of the route in question. They have made a pointed reference to the finding of the STAT recorded in Annexure P3, which, while commenting upon the curtailments/diversion/extension, has observed as under :—

“Thus, in my view, the curtailments, diversion and extension granted in these cases by the RTA have not served the public convenience. Secondly, I am of the view, that it would rather have been expedient to grant separate permits in respect of the varied route instead of allowing the applications of the private respondents. Finding on the second point, thus, goes in favour of the petitioners and against the respondents.”

(3) The above reproduced finding was not challenged by the State and hence, the same assumed finality, but it lost its relevance for the State ostensibly because the revision petitions were dismissed on the issue of limitation.

(4) In their written statement, respondent nos. 1 to 4 have taken up an objection that the present writ petition could not be termed as a public interest litigation as petitioner no. 1 was a rival operator and a transporter himself. They have averred that two earlier petitions, i.e., C.W.P. Nos. 12079 of 2004 and 6219 of 2005 filed for grant of similar relief were dismissed as withdrawn and even the present petitioners nos. 1 to 7 were the petitioners as the same serial numbers in the latter petition, i.e. C.W.P. 6219 of 2005, which was also filed in public interest, wherein also, a similar objection was taken by them that three out of ten petitioners therein were operators themselves and faced with that situation, the said writ petition was withdrawn with leave and liberty to take recourse to appropriate remedy for redressal of the grievances. It has also been stated that the present petition has been filed by excluding those three persons, but in any eventuality, it remains a continuation of the earlier proceedings and hence, the same,

in the garb of a public interest litigation, is not maintainable and deserves dismissal as it seeks to serve a personal interest.

(5) We have heard the learned counsel for the parties at some length and have perused the record.

(6) There is no denial of the fact that C.W.P. no. 6219 of 2005 had been filed by present petitioner nos. 1 to 7 along with several others and the same was dismissed as withdrawn with liberty to take recourse to the remedy available to them under the law. The necessity to withdraw the said writ petition arose when it was pointed out that some of the petitioners therein were transport operators themselves, who had their own axe to grind. Even in the present petition, one of the petitioners is stated to be a transporter to which there is no denial by them.

(7) The genesis of the present proceedings, therefore, is clearly stemming from personal interest of the rival operators amongst whom there is always a keen contest to corner the most lucrative route which can fetch fruitful returns for them.

(8) Such a view from the private operators can be expected as their sole concern in pursuing the profession of a transporter is a derivative of a desire to make profit.

(9) But, we are surprised at the attitude of the State Government because once the STAT, which, as a quasi-judicial authority, had observed that the curtailment/diversion/extension of the routes was against public interest, then it became the duty of the concerned authorities to address themselves to the situation and take remedial measures to remove the problems. Instead of taking any steps, the State and its authorities chose to slumber on; abandoning the interest of the public at large and slyly acquiescing to the interest of the private operators.

(10) We feel that the State should have discharged its duty by rectifying the position after addressing itself to the concerns of the residents of the area.

(11) Having regard to the fact that some private operators had filed earlier writ petitions, as also the fact that one of the petitioners herein is

a private operator himself, we do not wish to answer the writ petition in the realm of public interest litigation, but as a Court, we cannot shirk our responsibility once an infirmity has been brought to our notice as reflected in order dated 4th August, 2004 (Annexure P3) and reproduced in the foregoing paragraphs.

(12) We, therefore, dispose of this writ petition with a direction to the respondent nos. 1 and 2 to immediately take remedial measures in accordance with the observations made by the STAT in Annexure P3. The needful be done within a period of six weeks from the date of receipt of a copy of this order.

R.N.R.

Before T.P.S. Mann, J.

SURENDER AND OTHERS,—Petitioners

versus

SMT. OM PRABHA @ NEELAM,—Respondent

Criminal Misc. No. 16421/M of 2006

21st March, 2007

Code of Criminal Procedure, 1973—S. 482—Indian Penal Code, 1860—Ss. 323, 498-A, 406, 506, & 120-B—FIR by wife against her husband, mother-in-law, 3 brothers-in-law and their wives—Trial Court passing summoning order—Brother-in-law and their wives (petitioners) seeking quashing of complaint & summoning order—Petitioners residing separately and producing their own ration cards—General & vague allegations levelled against petitioners—Growing tendency to implicate all family members of husband on vague allegations—No question of harassing, beating or torturing respondent by petitioners—Petition allowed, complaint & summoning order qua petitioners quashed.

Held, that a perusal of the complaint would show that only general and vague allegations were levelled therein against the petitioners. No specific averment was made or the allegation levelled against any of the