

IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D –2184 of 2018

PRESENT:

MR. JUSTICE AQEEL AHMED ABBASI
JUSTICE MRS. KAUSAR SULTANA HUSSAIN

Abdul Majeed Khan.

Vs.

Province of Sindh and others

Petitioner: through Mr. Hussain Bakhsh Saryo, Advocate

Respondents: Nemo for the respondents.

Date of Hearing: 10.04.2018.

Date of Judgment: 10.04.2018.

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Aqeel Ahmed Abbasi, J. Instant petition was taken up for hearing on 20.03.2018, when the learned counsel for petitioner was directed to satisfy this Court as to maintainability of instant petition, particularly, in view of the fact that another similar petition No.1783/2018, whereby, same Notification was impugned was dismissed as not pressed vide order dated 20.03.2018.

2. Today, learned counsel for the petitioner was again confronted to assist the Court as to maintainability of instant petition as it appears that petitioner has not approached the relevant authority by filing appropriate proceeding in accordance with law. In response to such query, learned counsel for the petitioner submits that since impugned Notification dated 06.02.2018 relating to route classification and Notification dated

14.03.2018 relating to route permit in favour of respondent No.7 has been issued in violation of Rule 57-A of West Pakistan Motor Vehicle Rule, 1969, therefore, petitioner has filed instant petition. It has been further contended that the petitioner is already plying his vehicles on the said route, filed objections, however, the same have not been considered.

3. We have heard the learned counsel for the petitioner, perused the record and the relevant rules with his assistance. Perusal of Notification dated 06.02.2018 issued by the Secretary, Provincial Transport Authority Sindh, shows that the said Notification has been issued under Rule 57-A of the Motor Vehicle Rules, 1969, with the approval of the Chairman, Provincial Transport Authority Sindh as well as pursuant to previous Notification dated 08.12.2015 and order passed by Divisional Bench of this Court in C.P.No.D-1228/2016, whereas, Notification dated 14.03.2018 in respect of route permit in favour of respondent No.7 has been issued by Secretary, Provincial Transport Authority in terms of Rule 65(1) of the West Pakistan Motor Vehicle Rules, 1969, whereby, certain conditions have been imposed in terms of relevant Motor Vehicle Rules for compliance by the respondent No.7. Learned counsel for the petitioner was specifically confronted to assist this Court as to which relevant rule or sub-rule of Motor Vehicle Rules, 1969, has been violated while issuing the aforesaid Notification. In response to which, learned counsel for the petitioner has submitted that opportunity of being heard has not been provided to the petitioner while issuing impugned Notification relating to classification of route as well as route permits in favour of respondent No.7, however, nothing has been produced by the petitioner, which may suggest that the respondent No.7 does not meet the requirement for issuance of route permits or the Provincial Transport Authority has ignored the recommendations of Regional Transport Authority in this regard. Accordingly, we are not inclined to accept the aforesaid submissions of

the learned counsel for the petitioner with regard to maintainability of instant petition for the reason that petitioner has no cause of action to file instant petition as no adverse order or Notification has been issued against the petitioner, moreover, similar petition challenging the same Notification has already been dismissed. However, petitioner is at liberty to file representation or objections if any, along with evidence, if so advised before relevant authority, which can be decided by such authority/forum strictly in accordance with law and Motor Vehicle Rules, 1969, after providing opportunity of being heard to the concerned parties.

4. Accordingly, we don't find any substance in the instant petition, which was dismissed in limine vide our short order passed in the morning and above are the reasons for such short order.

JUDGE

JUDGE

Nadeem