

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.660 of 2016

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DATE ORDER WITH SIGNATURES OF JUDGE(S)  
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- For hearing of CMA No.10432/2016.

25.7.2016

Rana Azam-ul-Hassan, advocate for the plaintiff.

Syed Zulfiqar Ali Shah, advocate for Contemnors No.4 to 6.

Scho Marzia Begum, A.A.G.

Inspector Abdul Sattar, SHO, P.S. Old Mirpur  
District Mirpurkhas

Gulzar Ali Mari, SHO/SIP, P.S. Khipro, District Sanghar  
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Pursuant to the Court's order dated 17.7.2016, official Contemnors present in person and the private Contemnors (being Contemnors No. 4 to 6) have made their appearance through Syed Zulfiqar Ali Shah, advocate. Heard at length all the contemnors and taken their reply on file. Mr. Shah placed before this Court a copy of a Table dated 10.7.1998 issued by the Secretary Regional Transport Authority, Mirpurkhas (Annexed as Annexure-I to his counter affidavit to the contempt application).

The counsel contends that Contemnors No. 4 to 6 are plying their vehicles as per this Table, which has been issued by the Regional Transport Authority. The counsel also presented to this Court a Notification issued by the District Regional Transport Authority, Mirpurkhas in respect of Vehicle No. P-0339. Through these documents, the counsel contended that Contemnors No. 4 to 6 have been duly authorized to ply the instant vehicle between Mirpurkhas and Khipro at a certain time. Upon pointation that the Notification of 10<sup>th</sup> April, 1998, does not list the Vehicle No. P-0339 as well as, per the Notification issued by the District Regional

Transport Authority, Mirpurkhas no timings in respect of the Vehicle No. P-0339 are mentioned in that Notification giving reasons to believe that *prima facie* the said vehicle is being plied on the road without the time table provided thereof. Mr. Shah further contended that the applicable authority in such cases of transportation is the Regional Transport Authority and not the Provincial Transport Authority, which has issued the impugned Notification dated 7.4.2015 in favour of the plaintiff.

The learned counsel appearing for the plaintiff quoted Section 50(3) of the Motor Vehicle Ordinance, 1965 in terms of which the said notification has been issued. It appears that there is confusion as to the authority competent to issue Notification in respect of plying of motor vehicles in a province. To assist the Court, the learned counsel for the plaintiff placed the case of CHAGAI TRIBAL TRANSPORT COMPNAY v. SECRETARY, REGIONAL TRANSPORT AUTHORITY, Quetta (reported as PLJ 1987 Quetta 63) where the Division Bench while posed with similar issue came to the following conclusion:-

“The Regional Transport Authority to regulate timings in respect of buses plying on routes within limits of its region, while timing of buses plying in routes falling within area and jurisdiction of Provincial Transport Authority or inter provincial routes to be regulated by Provincial Transport Authority”. [Emphasis supplied]

It seems that while the plaintiff has been granted to ply its vehicles between Karachi to Hathango, as per the timings stipulated in the said Notification, whereas, while on way to Hathango its buses take a stopover at Mirpurkhas and Khipro at 11:30 a.m. and 01:00 p.m. for one vehicle and on 6:30 p.m. and 7:30 p.m. for the second vehicle on Upward Journey and between Karachi and Mirpurkhas in Downward Journey at 07:00 a.m. to

08:00 a.m. and 02:00 p.m. to 03:30 p.m. respectively. While the buses of the private contemnors only ply between Mirpurkhas and Khipro. The grievance of the plaintiff been that as its buses reach at Mirpurkhas and Khipro at the stipulated time given in the 7<sup>th</sup> April, 2015 Notification, the place is already occupied at those times by the buses plied by the Contemnors No. 4 to 6 and police seemingly favours the Contemnors by restricting way for the buses of the plaintiff.

It is very clear that while the Contemnors No. 4 to 6 have been permitted to ply their buses between Mirpurkhas and Khipro, no specific time has been allotted to them either for the upward or in downward journey whereas, specific time had been provided to the plaintiff in these stations. The learned counsel for the plaintiff went to the extent by placing on record an order passed by the Secretary District Regional Transport Authority Mirpurkhas dated 29.3.2016 in terms of which the Table put forward by the learned counsel for the contemnors No. 4 to 6 has been cancelled.

While at this juncture I am merely considering the contempt application, it is more prudent to have the parties bring forward this evidence when the main case is heard, however, on the basis of documents and the verbal submissions made before me by the respective parties' counsel and police, I am very clear in my mind that the hindrances caused to the operation of the plaintiff's busses by the Contemnors No. 4 to 6 and allegedly by police are utterly illegal and unwarranted. I, accordingly, while accepting the apology tendered by Police Officer present in Court caution them, as well as, the Contemnors No. 4 to 6 to ensure that the orders passed in terms of the Notification dated 7.4.2015 upheld by previous orders by this Court are followed in letter and spirit and

they make sure that the plaintiff's buses are freely allowed to take stop over at the stipulated time given in the said Notification dated 7<sup>th</sup> April, 2015. The District Regional Transport Authority Mirpurkhas is cautioned through the office of the Advocate General Sindh to ensure that the permission granted to respective applicants without specifying a time table are not given in future and ensure that buses plying through the permission of the Provincial Transport Authority has preference over the buses plied by the Local Transport Authority.

Upon the undertakings provided by the private Contemnors and by the Police officers present in Court, counsel for the plaintiff is satisfied and requests for disposal of the instant application on the above terms. Accordingly, the instant contempt application is disposed of in the above terms.

JUDGE

Barkat Ali/PA