

PROCEEDING FOR THE MEETING OF REGIONAL TRANSPORT AUTHORITY, KULLU, DISTT. KULLU, HELD ON DATED 30.05.2019 AT SHIMLA UNDER THE CHAIRMANSHIP OF CAPT. J.M. PATHANIA, IAS, DIRECTOR TRANSPORT GOVERNMENT OF HIMACHAL PRADESH, IN HIS CHAMBER.


The following were present:

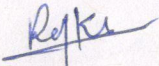
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| 1. Capt. J.M. Pathania, IAS | Chairman |
| 2. Sh. Raj Kumar | Member |
| 3. Sh. Bhuwan Sharma | Secretary |

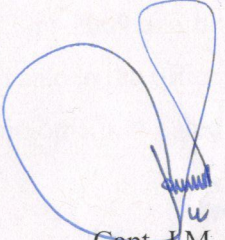
At the outset the Chairman Regional Transport Authority, Kullu welcomed the members present in the meeting and intimated that this special meeting of authority is being held in view of decision made by Hon'ble High Court of Himachal Pradesh/ the Ld. State Transport Tribunal, Himachal Pradesh in various CWPs and Appeals submitted by various petitioners/ appellants. The Secretary put up the detail of decisions for perusal of the authority. The authority perused all the decisions in various cases and after due deliberations in the light of CMV act, 1988 decided to proceed further to take up matter item wise for decision accordingly as under:-

Item No. 1:- Confirmation of the proceedings of the last meeting of Regional Transport Authority, Kullu, Himachal Pradesh.

The minutes of the last meeting of Regional Transport Authority, Kullu held on dated 25-04-2019 were placed before the RTA for its appraisal. The minutes of the meeting were read over the authority decided to confirm the same.


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Item No. 2:- Consideration of case of exemption of Sh. Bhupesh Nandan, S/o Sh. R.N. Bhardwaj, R/o VPO. Khokhan, Teh. & Distt. Kullu, H.P. with appeal No.23/2013.

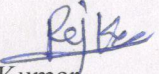
The case was called and the secretary RTA brief the case as under:-

A route permit in favour of Sh. Bhupesh Nandan, S/o Sh. R.N. Bhardwaj, R/o VPO. Khokhan, Teh. & Distt. Kullu, H.P. has been issued for the route Bhunter-Baloo [4RT] with Bus No. HP66-1221(42+2) on dated 11.12.2007 which was valid upto 10-12-2012. Unfortunately the vehicle met an accident on dated 23.11.2009 for which the owner of vehicle report to the police station Aut on dated 24-11-2009. The owner of vehicle applied for the replacement of vehicle on dated 03/05/2010 for that the replacement permission has been issued to the applicant on dated 24/06/2010.

The applicant requested for the renewal of time table of bus no. HP66-1221 on dated 17/01/2011 in reply of that the Regional Transport Officer Kullu replied him vide letter No. आर टी ए के समय सारणी/ एच पी 66.1221/199 दिनांक 04/02/2011 that *"the passing of vehicle No. HP66-1221 has been expired on dated 04.12.2009 and the route permit has not been renewed after expiry of passing so the time table could not be renewed without passing so you are directed to pass your vehicle at the earliest and deposit the fitness certificate in office so that time table could be renewed"*.

The applicant once again submitted an application on dated 09/02/2011 for renewal of time table where he also stated that he want to sell his bus No. HP66-1221 and replace it with a new bus on route Bhunter – Baloo (4RT) and get the RC of bus HP66-1221 deposited in office. But as per office record no route permit and RC found deposited in office. A registered notice has been served the owner of bus No. HP66-1221 to deposit the SRT amounting to 168392/- and penalty 25% per annum; vide this office letter No. आर.टी.के./2011-12-1800 -on dated 06-12-2012 in reply of notice the owner of bus he stated that his bus met with an accident on dated 23-11-2009 and he lodged FIR in police station Aut on dated 24-11-2009 and submitted copy of FIR alongwith RC, Route Permit and Time Table in the office on dated 25-11-2009. Which was also received through the Directorate of Transport vide letter No. CT-9-172/SRT Exemption-Kullu dated 04-01-2013 in which


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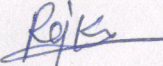
direction was given to the Regional Transport Officer to examine the case and send detailed report along with status of SRT of bus in question. In reply Regional Transport Officer Kullu submitted that the SRT of vehicle No. HP66-1221 paid upto May 2010. The owner of the said vehicle defaulted in the payment of Special Road Tax amounting to Rs. 179256/- from may 2010. Under paragraph "C" of said letter it was mentioned that as per the applicant he had deposited his route permit and RC in the office of Regional Transport Officer Kullu however after the verification of records found no such documents that were deposited.

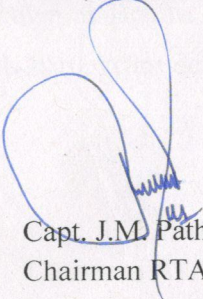
It is pertinent to mention here that the owner of bus deposited token tax of bus No. HP66-1221 vide receipt No. AB40476 for the period 01.01.2010 to 30.06.2010 on dated 26.08.2013 if he deposited his SRT then why he will pay token tax of deposited RC. The owner had requested replacement permission which was granted to the said owner vide this officer letter No. RTA(K) Stage Carriage/HP66-/2009-10-1201 on dated 24-06-2010 with conditions:-

- (1) Seating capacity of replaced bus should not be less than 29+2.
- (2) The model of stage carriage bus should be approved by govt of HP.
- (3) Exemption in SRT shall be granted as per HPMV Taxation Act 1972.
- (4) The owner of vehicle shall produce bus within three months from the issue of this letter and after three months no exemption in SRT & TT will be granted.
- (5) All dues should be cleared at the time of entering the new bus in the permit.

The applicant failed to produce bus within the stipulated time period and hence had again applied for the replacement permission of the said bus on dated 01.02.2011 which was not granted. The case of said bus has been sent to the Tehsildar Recovery, Distt. Kullu through this office letter No. Case No. RTA(K) 2012-13-466 dated 28-02-2013 for the declaration as ALR.


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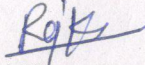
The owner filled an appeal before the Ld. Transport Tribunal under appeal No. 23/2013 for exemption of taxes and release of route permit known as Bhunter – Baloo [4RT]. The appeal No. 23/12013 was disposed of by Ld. STAT on dated 26-12-2018 with the direction that appellants would make a representation within 10 days from the date of decision about his grievances as averred in the appeal with the RTA Kullu, and that RTA Kullu has to be decide such representation in accordance with law within a period of six weeks in the presence of parties. The appellants submitted representation before the Secretary RTA Kullu on dated 21-01-2019. The matter was placed before RTA for its consideration on dated 25-04-2019 RTA heard the applicant but decision could not be taken due to absence of RTA member the case was deferred to next RTA meeting to be held on dated 30-05-2019.

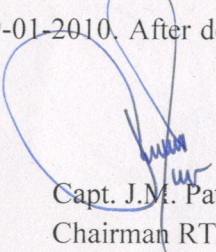
There is one another matter of issuance of grant letter was placed in this appeal that one route permit known as Bradha – Bhunter [1RT], Bradha – Baloo [1RT] sanctioned in favour of Sh. Bhupesh Nandan but the grant letter not issued to the applicant. The matter of grant letter placed before RTA in its meeting held on dated 07.10.2010 in which case was deferred and further never decided by the RTA.

Decision of RTA:- From the above facts it is found that in appeal No 23/2013 the applicant is Seeking exemption of taxes with respect to the permit Bhunter -Baloo(4RT) and seeking of the permit grant letter for Bradha-Bhunter(1RT) route. Whereas the same case of Bus No. HP66-1221 was placed in appeal No 7 for seeking exemption of taxes with respect to the permit Bhunter-Baloo (4RT). But as per fact placed before RTA it is found that the route permit and RC of vehicle were not deposited with the competent authority but the appellants plead that his bus met with accident and not in the condition to ply on road. So the RTA give him opportunity to produce the proof of non plying of bus in the route before the secretary RTA Kullu and further the case will be referred to the headquarter for exemption of tax.

Another matter of issuance of grant letter was placed in this appeal that one route permit known as Bradha – Bhunter [1RT], Bradha – Baloo [1RT] sanctioned in favour of Sh. Bhupesh Nandan in the RTA meeting held on dated 19-01-2010. After detailed deliberation RTA decided to issue grant letter of the route.


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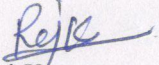

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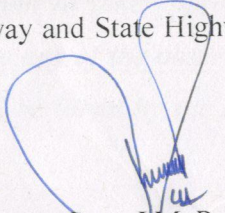
Item No. 3:- Consideration of case of Sh. Sudesh Kumar S/O Sh. Pathanu Ram VPO. Rakar Teh. Baijnath Distt. Kullu HP. with appeal No. 08/2016 decided by Ld. STAT on dated 12-04-2019.

Two route permits sanction letter issued for Dharmshala – Keylong 2 ST and Palampur-Keylong 2 ST route in favour of Sh. Sudesh Kumar S/O Sh. Pathanu Ram VPO. Rakar Teh. Baijnath Distt. Kullu HP. on dated 14.10.2002. The applicant applied before the Regional Transport Officer Kullu on dated 27-02-2003 for extension of grant letter due to unavailability of chassis. Two route permits Dharmshala – Keylong 1ST and Palampur – Keylong 1 ST issued to the applicant on dated 02-05-2003. The applicant requested for modification of Dharmshala – Keylong 1ST and Palampur – Keylong 1 ST permits as 2ST route permits on dated 26-08-2004 in reply to the application a letter has been sent vide letter No. RTA(K)-2034/2003-1324 dated 18-09-2004 to the applicant with the advice to apply as fresh permit as the grant letter validity of six months has already expired.

The matter of route permits of the applicant and one another similar case of Sh. Bhim Sen placed was placed before the RTA in its meeting held on dated 25-06-2007 and RTA rejected both the applications. The applicant was also informed about the RTA decision dated 25-06-2007 that his applications were rejected on dated 16-08-2007. The case of Sh. Bhim Sen for extension of grant letter issued to him in the year 2002 placed before the RTA in its meeting held on dated 02-08-2008 and RTA decided to issue grant the permits in favour of applicant on regular basis for five year. The applicant submitted an application on dated 28-11-2008 for modification of his route permit Dharmshala–Keylong 1 ST and Palampur-Keylong 1 ST as 2ST permits each. The case was placed before the RTA in its meeting held on dated 23-10-2009 but the RTA rejected to the application due to maximum portion of the route falls under National Highway and State Highway. The applicant


Bhuwan Sharma
Secy. RTA, Kullu

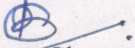

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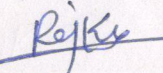

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Chairman RTA, Kullu

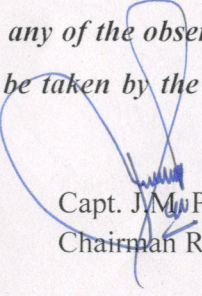
again requested for reconsideration of his case in next RTA meeting. The case was placed before the RTA on dated 19-01-2010 for consideration but the RTA rejected the applications.

The applicant filed an appeal vide appeal No. 05/2010 before Ld. STAT which was dismissed on dated 06-01-2011 with the decision that there is no merit in the appeal. The Applicant filed CWP No. 1712/2011 before the Hon'ble High Court dispose off the CWP with the direction to respondent to *re-consider the case for renewal/ modification of route permits issued in his favour vide letter Annexure PA dated 14.10.2002, subject to availability of routes as on now, within a month from the date of production of copy of judgment by the petitioner or in its next meeting, whichever is earlier.* The matter place before RTA for consideration in its meeting held on dated 27/08/2011 and RTA rejected the application with the submission that the frequency of buses are 5 to 10 minutes. The applicant filed a CWP vide CWP No. 10271 the CWP disposed of on dated 26.02.2013 with the judgment "*the prayer of the petitioner for grant of permit on the analogy of the said Sh. Bhim Sen, cannot be granted being in violation of the Transport Policy of 2004, which requires maintenance of a balance to the extent of 60:40 for grant of permits for rural and urban routes.* The applicant filed LPA 145/2013 in pursuance of CWP 10271/2013 which was decided on dated 18/06/2013 with the judgment "*permits have since been cancelled or revoked being issued fraudulently. We hope that such consequential action be taken by the Department, if already not taken. The department must proceed against the said permits in accordance with law forthwith. In any case, fraudulent permits granted to some other persons cannot be the basis to grant relief to the appellants before us. Hence, no interference is warranted in this appeal.*

A Review petition against the LPA NO. 145/2013 filled by M/s Jogindera Transport Bus Service vide review petition No. 4046/2013 with was decided on dated 12/09/2013 with the judgment "*We do not think it necessary to review the order, dated 18th June, 2013, inasmuch as the grievance of the petitioner can be considered by the department, which has been called upon to take appropriate measures in accordance with law. The department shall consider the claim of the review petitioner uninfluenced by any of the observations made in the order, dated 18th June, 2013, after giving opportunity to all concerned. No precipitative action shall be taken by the department without*


Bhuwan Sharma
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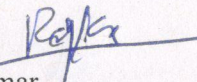

Capt. J.M. Pathania
Chairman RTA, Kullu


giving opportunity to all concerned and those proceedings shall be taken to its logical end, in accordance with law. Except this, nothing more is required to be done in this review petition. The same is disposed of." The case of Bhim Sen was placed before RTA through agenda wise circulation on dated 19-07-2014 and RTA decided to cancel the permits. Sh. Bhim Sen filed an appeal before Ld. STAT vide appeal No. 06/2015 against the RTA decision dated 19-07-2014. Which was decide by STAT in light of appeal No. 03/2008 and STAT allowed Sh. Bhim sen to ply the buses and RTA has to decide his case within four weeks. The applicant submitted an application on dated 18-08-2015 to Secretary RTA Kullu with the request to hear his case as per decision of appeal No. 06/2015 the matter before next RTA meeting for consideration and decision. The matter placed before RTA in its meeting held on 28-03-2016 in which route permits of Sh. Bhim Sen revoked. The applicant approached HP STAT vide appeal No. 08/2016 Ld STAT disposed off the appeal with the direction to the applicant to make and representation before RTA Kullu within four weeks and RTA has to decide such representation within four weeks in accordance with law. The applicant submitted an application with the decision of Ld. STAT in appeal No. 08/16 to heard his case in ensuing RTA meeting. The applicant submitted an representation to heard his case in ensuing RTA meeting in the light of Ld. STAT decision dated 12-04-2019.

Decision of RTA: - The RTA heard the applicant and found that the route permits were sanctioned to the applicant in the year 2002 before the Transport policy 2004 and the applicant is already running buses on the routes in question and there is no question of time table clash after detailed deliberation RTA decided to issue grant letter to the applicant.

Item No. 4:- Consideration of case of M/s Payal Bus Service through its proprietor Sh. Ashwani Kumar S/o Sh. Om Prakash Sharma, R/o Ward No. 11 Po. Mohini, Teh. & Distt. Hamirpur, H.P. With CWP No. 1264/2018 and CMP No. 4490 of 2019 dated 24/05/2019.


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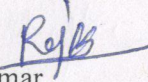

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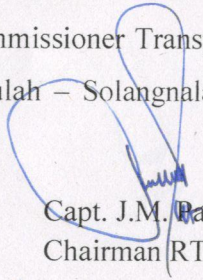
A route permit in favour of Sh. Vikash Behal for Paltikulah – Solangnala-Manali – Mandi- Nerchowk – Jahoo- Lambloo- Hamirpur, Tonidevi [2ST] on dated 16-12-2009. The route permit modified by the RTA in its meeting held on dated 07.10.2010 as Patlikula- Solangnala – Via- Manali – Jahoo- Hamirpur –Glore Dhaneta [2ST] and further the route permit once again modified as Patlikulah- Solangnala - Dehra- via- Manali – Kullu – Mandi- Jahoo- Hamirpur-Rangas- Bhota-Nadaun- Jawalaji [2ST] by the RTA in its meeting held on dated 07.12.2011. A CWP vide CWP No. 3544/2012 has been filled by Sh. Arun Pathania, S/o Sh. Chamel Singh, R/o Gaglu, Po. Bani Di Hatti, Teh. Baroh, Distt. Kangra, H.P. against the modification dated 07-10-2010 and 07.12.2011 vide which these modifications was quashed by the Hon'ble High Court in its decision dated 12/12/2012 that no modification of timing/return trips/route etc. is permitted within the initial two years of grant of permits.

The route permit for the route Patlikulah- Solangnala - Dehra- via- Manali – Kullu – Mandi- Jahoo- Hamirpur-Rangas- Bhota- Nadaun- Jawalaji [2ST] has been transferred in the name of Sh. Ashwani Sharma S/o Sh. Om Prakash on dated 05/07/2013. In compliance of Hon'ble High Court order dated 12.12.2012 a notice on dated 03-10-2013 was served to the owner of permit that not to ply the buses on modified route but ply his buses on its original route. In compliance of notice the owner of bus deposited his route permit and time table on dated 22/10/2013.

The owner of bus filled an appeal before the Ld. STAT vide appeal no. 30/2013 for the revocation of modification carried out in the route permit on dated 07.12.2011. Ld. STAT disposed of the appeal with the order that the appellant shall make a representation to the Regional Transport Authority Kullu about his grievances within three weeks, the respondent RTA Kullu shall take a decision within four weeks about his grievances as set out in the appeal. But the owner failed to make any representation within three weeks hence no action could be taken. An application was received from the applicant on dated 17-09-2016 which was addressed to worthy Commissioner Transport H.P. regarding modification of his route permits in which he has requested to modify his present route permit Paltikulah – Solangnala-Manali – Mandi-


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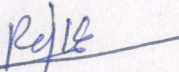

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Chairman RTA, Kullu


Nerchowk – Jahoo- Lambloo- Hamirpur, Tonidevi [2ST] as Patlikulah- Solangnala - Dehra- via- Manali – Kullu – Mandi- Jahoo- Hamirpur- Rangas- Bhota-Nadaun- Jawalaji [2ST] the matter was placed before the RTA in its meeing held on dated 30-05-2017 in which RTA directed the applicant to complete his codal formalities and accordingly the case will be placed before the next RTA meeting. The applicant filled CWP No. 1264/2018 on dated 04/05/2018. The matter of applicant was placed before RTA in its meeting held on dated 21-06-2018 in which RTA heard the appellatant and RTA decide to pend the matter till final outcome of the Hon'ble High Court. An order has been passed by the Hon'ble high Court on dated 24-05-2019 that *"let the case of the petitioner be considered in the next RTA meeting"*. The Hon'ble High court quashed the modifications carried out in the route permit on dated 07-10-2010 and 07.12.2011 due to non completion of initial two years of grant of permits. The case of the applicant has been placed before the RTA for consideration as now the period of initial grant of two years has been completed please.

Decision of RTA:- The RTA heard the applicant Sh. Ashwani Kumar and gone through the case and found that in CWP No. 3544/2012 the Hon'ble High Court has quashed the decision of RTA dated 07/10/2010 and 07/12/2011 regarding modifications of the permits only on the ground that modifications of the permits has been accorded prior to two years from the issuance of permit which is the violation of transport policy and the Hon'ble High Court of H.P. does not arise any illegality in the modifications carried out in the permit else than the completion of two years period of issuance of permits Hence now the limit of two year for issuance of permit has been completed so the RTA decided to upheld the decision of RTA dated 07/12/2011 which route was later transferred to the applicant.

The meeting ended with a vote of thanks to end from the Chair


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