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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7382/2022**

INDO CANADIAN TRANSPORT COMPANY Petitioner

Through: Mr. Rajiv Nayar, Senior Advocate
alongwith Mr. Aditya Soni & Mr. Saurabh Seth,
Advocates

Versus

**AIRPORTS AUTHORITY OF INDIA THROUGH ITS GENERAL
MANAGER & ORS.** Respondents

Through: Mr. Digvijay Rai, Mr. Aman Yadav &
Mr. Archit Mishra, Advocates for Respondent No.
1

Mr. Manish Vashisht, Senior Advocate alongwith
Mr. Sameer Vashisht, ASC, Civil (GNCTD) with
Mr. Manashwy Jha & Mr. Sanjana Nangia,
Advocates for Respondent Nos. 3 to 5

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

% **ORDER**
24.05.2022

CM APPL 22609/2022 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 7382/2022

1. The present petition has been filed under Articles 226/227 of the Constitution of India on behalf of the petitioner seeking directions to the respondents in connection with plying of its buses to pick up and drop off

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passengers at the designated area of arrival and departure at the Indira Gandhi International Airport. The petitioner, who claims to be the owner of 17 buses, also seeks quashing of the impugned challans stated to be issued in respect of its buses by respondent No.3.

2. Mr. Rajiv Nayar, learned Senior Counsel for the petitioner, submits that the buses owned by the petitioner are plying between Amritsar and Indira Gandhi International Airport and it is aggrieved by the respondents' action of issuing *challans* and impounding the same in violation of All India Tourist Vehicles (Authorization of Permit) Rules, 2021. In this regard, he has referred to Rule 139 of the Central Motor Vehicle Rules, 1989 to submit that instead of giving 15 days' time to the petitioner from the date of demand to produce the requisite documents, the respondent(s) straightway issued *challans* and impounded the buses owned by it.

3. Learned Senior Counsel for the petitioner, on instructions, further submits that prayer (i) be read as sought against respondent No.2 only and respondent No.1 be deleted from the array of parties. It is ordered accordingly.

4. Issue notice.

5. Mr. Manashwy Jha, learned counsel appearing on behalf of respondent Nos. 3 to 5, accepts notice and seeks some time to file the counter-affidavit. Let the same be filed within four weeks from today.

6. The amended memo of parties be placed on record before the next date of hearing.

7. Notice be issued to respondent No. 2 by all permissible modes, including electronic, returnable on 26th July, 2022.

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8. With the consent of learned counsels for the parties, the date already fixed, i.e. 11.07.2022 stands cancelled.

CM APPL. 24715/2022 (Stay) & CM APPL 22608/2022 (Stay)

1. The present applications have been filed under Section 151 CPC on behalf of the petitioner seeking *ad-interim* stay of operation of the impugned challans and directions to the respondent(s).

2. Learned Senior Counsel for the petitioner submits that in most of the challans issued in respect of the buses of the petitioner, it was stated (i) that the bus was being plied without permit and/or in violation of terms thereof, (ii) that alteration was noticed, and (iii) that relevant documents were not produced at the time of checking at the spot.

It is submitted that since the issuance of the impugned *challans*, the petitioner has not only duly paid the same, but also produced all relevant documents with respect to the 17 buses owned by it, including permit, to the Commissioner of Transport, State Transport Department vide communication dated 10.05.2022. It is further submitted that in spite of that, repeated *challans* have been issued and impounding of buses has been done in complete violation of Rule 139 of the Central Motor Vehicle Rules, 1989.

3. Issue notice.

4. Learned counsels, as above, accept notice on behalf of the respondents.

5. Mr. Manish Vashisht, learned Senior Counsel appearing on behalf of respondent Nos.3 to 5, submits that the petitioner is using/plying the aforesaid buses contrary to the permit granted to it, inasmuch as instead of using as 'Contract Carriage', the buses are being used as 'Stage Carriage'.

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6. At this stage, learned Senior Counsel for the petitioner, while disputing the submissions made on behalf of the respondents, on instructions, submits that the petitioner has been operating its buses in compliance with the terms of the permit and would continue to use the buses in terms thereof. It is explicitly assured that the aforesaid buses will not be plied as 'Stage Carriage'. Without prejudice, learned Senior Counsel also submits that if any alteration in the buses is existing, the same will be removed.

7. Keeping in view Rule 139 of the Central Motor Vehicle Rules 1989, it is directed that if required, the respondent(s), instead of issuing *challans* and impounding the buses, shall give time to the petitioner to produce the requisite documents in accordance with the Rules.

8. List on 26th July, 2022.

9. Notice be issued to respondent No.2 by all permissible modes, including electronic, returnable on the date fixed.

10. Reply, if any, be filed by respondent Nos.1 and 3 to 6 before the next date of hearing.

MANOJ KUMAR OHRI, J

MAY 24, 2022

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Click here to check corrigendum, if any

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