

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 3445 of 2023

Decided on : 02.06.2023

Khamesh Chand Beakta

...Petitioner

Versus

State of Himachal Pradesh and others

...Respondents

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?¹

For the petitioner: Mr. Ravinder Singh Chandel,
Advocate.

For the respondents: Mr. Anup Rattan, Advocate General,
with Mr. Ramakant Sharma and Ms.
Sharmila Patial, Additional Advocates
General, Mr. J.S. Guleria, Deputy
Advocate General, Deputy Advocate
General, and Mr. Rajat Chauhan, Law
Officer.

Virender Singh, Judge. *(oral)*

Petitioner-Khamesh Chand Beakta has invoked
the extra ordinary jurisdiction of this Court, under Article 226

¹ *Whether Reporters of local papers may be allowed to see the judgment?*

of the Constitution of India, seeking the following substantive reliefs:

“i. That respondents may very kindly be directed to issue regular time table to the petitioner in consonance with time schedule as allowed in joint time table meeting as per Annexure P-3.

ii. That respondent authorities may kindly be directed to compound the challan without payment (Annexure P-5), being result of their fault.

iii. That respondents may very kindly be directed to compensate the petitioner for the loss suffered by him on account of inactions on the part of the respondents.”

2. Perusal of the factual position, as pleaded in the writ petition, shows that the petitioner had earlier approached this Court, by way of filing CWP No. 1858 of 2023, which was dismissed as withdrawn, with liberty to approach the State Transport Appellate Tribunal.

3. In pursuance of the said liberty, the petitioner has filed the appeal before the State Transport Appellate Tribunal, but, according to the petitioner, the State Transport Appellate Tribunal is not operational fully, as, the learned Chairman of the State Transport Appellate Tribunal is facing shortage of necessary amenities, such as, the Court Room and staff. Hence, necessary orders could not be passed on his

appeal. Copy of the grounds of appeal has been annexed with the petition as Annexure P-8.

4. Since, the grievances, which have been raised, by the petitioner, in appeal, are to be decided by the State Transport Appellate Tribunal, as such, this Court shall refrain itself from commenting upon the merits of the case. The petitioner is at liberty to raise all the grounds, which have been taken in the present writ petition, before the State Transport Appellate Tribunal.

5. However, before parting with the order, this Court must record its deep concern about the manner, in which, the things are moving.

6. The State Transport Appellate Tribunal was constituted by the State of Himachal Pradesh, vide Notification, dated 20th June, 2022. On 3rd August, 2022, another Notification, in continuation to the earlier Notification, was issued and Headquarter of the State Transport Appellate Tribunal has been ordered to be fixed at Mandi, District Mandi, Himachal Pradesh.

7. Thereafter, a request was received from the Government to post the Judicial Officer of the rank of District

and Sessions Judge, as Chairman-cum-Member, State Transport Appellate Tribunal. Consequently, this High Court, on administrative side, vide Notification, dated 23rd March, 2023, has posted Shri Bahadur Singh, District and Sessions Judge (Forests), Shimla, as Chairman-cum-Member of the State Transport Appellate Tribunal at Mandi. However, before the State Transport Appellate Tribunal could become operational at Mandi, on 5th April, 2023, the headquarter of the State Transport Appellate Tribunal has been ordered to be shifted from Mandi to Hamirpur. Thereafter, the Notification, dated 23rd March, 2023, has been modified by the High Court on 11th April, 2023, posting Shri Bahadur Singh, District and Sessions Judge, as Chairman-cum-Member of the State Transport Appellate Tribunal, Hamirpur.

8. As per the grievances, which have been mentioned in the present writ petition, the State Transport Appellate Tribunal is not operational, on account of lack of infrastructure, such as, Court Room, Chambers, space for staff, etc.

9. The Hon'ble Supreme Court in **Civil Appeal No. 36084 of 2016**, titled as **State of Jammu and Kashmir &**

ors. versus District Bar Association, Bandipora, has mandated that it is the duty of the State to provide sufficient infrastructure for the smooth functioning of the Court. The relevant portion of the judgment is reproduced, as under:

“We have adverted to the above grievances in order to emphasise that there is substantial merit in the submission that the High Court proceeded to issue directions for regularization without considering either the legal position enunciated in the judgments of this Court referred to above and without considering the prevailing rules and regulations on the subject. The High Court has observed in its order dated 1 December 2015 that over a considerable period of time the state government has not created the required number of posts for the state judiciary as a result of which work has been hampered. According to the High Court, appointment of daily rated workers was necessitated to ensure that judicial work does not suffer. The High Court opined that these workers have been rendering work which should have been assigned to persons appointed on a regular basis against sanctioned posts. It is unfortunate, in our view, that the state government has allowed the requirements of the state judiciary to be neglected over such a long period of time. The need to facilitate the proper functioning of the High Court and the district judiciary is a constitutional necessity which imposes a non-negotiable obligation on the state government to create an adequate number of posts and to provide sufficient infrastructure. The state government is to blame for the unfortunate situation which has resulted in a large number of persons being recruited on a daily wage basis.”

(self emphasis supplied)

10. In **Writ Petition (Civil) No. 643 of 2015**, titled as **All India Judges Association versus Union of India &**

Ors., the Hon'ble Supreme Court, in para 33 of the judgment, has held, as under:

“33. The right of fair trial and access to justice, as contemplated by this Court, is not limited to the physical access to a Court. The right must also include all the necessary prerequisites of a Court, i.e., the infrastructure, and an unbiased, impartial, and independent judge. At the cost of repetition, for most litigants in this country, as the only physically accessible institution for accessing justice is the District Judiciary, the independence of district judiciary assumes even greater significance.”

11. Judging the facts and circumstances of the present case, in the light of the decisions of the Hon'ble Supreme Court, especially in **All India Judges Association's case (supra)**, this Court is of the considered opinion that the concept of access to justice has been found to be violated on account of not providing the basic infrastructure to the State Transport Appellate Tribunal.

12. In view of the above, it is high time for this Court to direct the Principal Secretary (Home), as well as, the Principal Secretary (Transport) to the State of Himachal Pradesh, to provide the infrastructure, befitting the status of the learned Chairman of the State Transport Appellate Tribunal, who happens to be the senior officer of the rank of

the District and Sessions Judge, for making the State Transport Appellate Tribunal fully functional, in a time bound manner, so that the poor litigants may not be forced to approach this Court again and again. Ordered accordingly. The needful be done within a period of thirty days from today.

13. The writ petition is disposed of in above terms, alongwith the pending miscellaneous applications, if any.

For compliance, to come up on **4th July, 2023.**

(Tarlok Singh Chauhan)
Judge

(Virender Singh)
Judge

June 02, 2023
(rajni)