
(1961) 06 AP CK 0012
In the Andhra Pradesh High Court
Case No : Writ Petition No. 17 of 1960

A. Annamalai

APPELLANT

Vs

State Transport Authority, Andhra Pradesh and Others

RESPONDENT

Date of Decision : 30-06-1961

Acts Referred:

Motor Vehicles Act, 1939 — Section 60, 63(2)

Citation : AIR 1962 AP 148

Hon'ble Judges : P. Chandra Reddy, C.J.;Jaganmohan Reddy, J

Bench : Division Bench

Advocate : G. Suryanarayana, for the Appellant; O.A. Reddy, Govt. Pleader, for the Respondent

Judgement

Jaganmohan Reddy, J.

(1) In view of the legal point involved in this case one of us referred the matter to a Bench. The short point that falls for consideration in this writ petition is whether the primary authority granting the permit can suspend or revoke a permit for breach of the conditions in a different State beyond its Jurisdiction where the permit has been counter-signed by the counter-signing authority of that other State. in other words, does the primary authority has Jurisdiction beyond its territorial limits to suspend or cancel the permit for the breach of any condition by the permit holder within the Jurisdiction of the countersigning authority.

(2) In this case, the petitioner is a transport operator plying one of his stage carriages APC 520 on an inter-State route between Choudepalli and Gudiyattam. The permit relating to the portion lying in the State of Andhra Pradesh was granted by the Regional Transport Authority, Chittoor and for the portion lying in the State of Madras, it was counter-signed by the Regional Transport Authority, North Arcot. on a report made by the Motor vehicles Taxation Sub inspector of vellore, North Arcot District to the Regional Transport Authority, Chittoor that the petitioner was carrying 27 passengers on 7-2-1957 to Whom tickets were not

issued and in excess of the capacity of the bus, chargememo Rc. No. 3124/A2/57 dated 26-2-1957 was issued to the petitioner calling upon him to submit an explanation for violation of the conditions of the permit. The petitioner in his explanation denied the alleged offence, but the Regional Transport Authority, Chittoor found him guilty of the said breach and by proceedings dated 27-9-1957 suspended the permit for a period of six months under S. 60 of the Motor vehicles Act.

The petitioner appealed to the state Transport Authority questioning the Jurisdiction of the Regional Transport Authority, Chittoor to suspend the permit granted by the said Authority for an alleged violation of the conditions of the counter permit granted by the Regional Transport Authority, North Arcot. He further denied the offence. The State Transport Authority dismissed the appeal relying on G. O. Ms. No. 1240 dated 3-8-1957 issued by the Government of Andhra Pradesh under which the jurisdiction was alleged to have been conferred on the Authority which granted the primary permit to take action under S. 60 of the Act in respect of the alleged violation of the conditions of the counter permit granted by a different authority.

A revision petition under S. 64-A of the Act to the Government was preferred and stay of the operation of the order pending disposal of the revision petition was sought for on 14-12-1959, but since no orders were passed and as it was apprehended that the secretary, Regional Transport Authority would take steps to enforce the order of suspension, this writ filed.

(3) Shri G. Suryanarayana, on behalf of the petitioner, contends that S. 60 of the motor vehicles Act which authorises the Transport Authority which granted the permit to cancel or suspend the permit for such period as it thinks fit for breach of any of the conditions of the permit and for other reasons specified there in would vest Jurisdiction in the primary authority alone to cancel, suspend or revoke the permit for breaches of conditions outside the State.

He further contends that inasmuch as S. 63 of the Act states that the counter-signing would tantamount to the grant of an independent permit with the conditions or permit imposed by the primary authority as well as any additional conditions that may be imposed by the counter-signing authority. According to him, the Jurisdiction of the counter-signing authority is not co-extensive with that of the primary authority inasmuch as under S. 63(1) unless there is a counter-signature, the bus cannot ply in that region or State over which the primary authority has no control.

Secondly, under sub-section (2), the Regional Transport Authority when counter-signing the permit can attach to the permit any condition which it might have imposed if it had granted the permit, and may likewise vary any condition attached to the permit by the Authority by which the permit was granted. According to this provision, it is argued, that the conditions in the primary permit may be varied, as such if the contention of the Government Pleader is to be

accepted, it would present an anomalous position, in that, where the primary permit authorises a bus owner to take standing passengers and the countersigning authority prohibits it, the breach of this condition in the other State could not authorise the primary authority to cancel the permit, because there is no breach of the condition at all.

Reference was made to Ss. 44, 45, 57, 60, 63(2) and 64 of the Motor vehicle Act and the several rules made thereunder and to the cases of *Lion Automobile Service Co. v. State Transport Authority Madras*, 1957-2 Mad LJ 300 at p. 302; *Anant Bahadur Singh Vs. Ashtbhuja Bux Singh and Others*, and *Balurghat Kaliagunge Assn. and Others Vs. S.T.A. and Others*, as justifying the view that the violation of conditions of a temporary permit does not entitle the authority to suspend a pucca permit. We may however state that our brother Seshachalapati J. in his Judgement in W. P. Nos. 1065 and 1066 of 1959 (AP) held that S. 60 of the Motor vehicles Act would permit the Regional Transport Authority to cancel the permit for breach of conditions even outside the State. But it is contended that this judgement is based on the point being conceded before him. Be that as it may, we do not find any Jurisdiction for the contentions advanced by the learned advocate for the petitioner.

(4) Where a route runs through several areas, that authority with in whose jurisdiction the permit-holder generally resides or has his principal place of business would have Jurisdiction to grant a permit. Section 45 of the Motor vehicles Act (4 of 1939) says that every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles; provides that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies and in case the portion of the proposed route or area in each of the regions is approximately equal to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles: provided further that if it is proposed to use the vehicle or vehicles in two or more region lying in different states, the application shall be made to the Regional Transport Authority of the region in which the applicant resides or has his principal place of business.

From a reading of this section it is seen that where the vehicle is to be used in two or more regions in the same State that authority is given jurisdiction in which majority of the route is to be operated, or if the route is equally divided between two regions in the same state, that authority has Jurisdiction where the vehicle is kept. When it comes to the Jurisdiction of the authority where the applicant resides or has his principal place of business. There is a clear indication in this section to vest the Jurisdiction in that authority which has control over the applicant by reason of his being domiciled within that state.

The counter signature by the countersigning authority under S. 42 is dependent upon the grant of the primary permit. If the permit is cancelled by the primary

authority, the vehicle cannot possibly be plied in the region of the countersigning; but if the countersignature is cancelled for any breach of the conditions imposed by the countersigning authority, the vehicle can be piled up to that region. In such circumstances, therefore, the anomaly to which the learned advocate for the petitioner has adverted does not in fact exist because, for the breach of any independent conditions imposed by the countersigning authority, which condition are not the conditions imposed by the primary authority, it is only the countersigning authority that can cancel the counter signature. But if the conditions of the permit issued by the primary authority are merely counter signed then the jurisdiction to cancel the permit issued by the primary authority are merely counter signed, then the jurisdiction to cancel the counter signature. But if the conditions of the permit issued by the primary authority that can cancel the permit for any breach of the conditions in the region of the counter signing authority would vest in the primary authority also, because such suspension or cancellation would be the only effective method of control over such stage carriage permit holder. The cancellation of the countersignature as we have already indicated, would be ineffective.

That this is the intention of the Legislature can be gathered by a reference to some of the provisions of the Motor vehicles Act. For instance, S. 48(3) authorises the imposition of the conditions specified in clauses (i) to (XXII) by the Regional Transport Authority which grants the stage carriage permit. While S. 59(3) specifies the conditions that are attached to every permit, similarly the conditions to be attached to Contract Carriage permit and private Carrier permit and Public Carrier permit have been specified in the Act.

Section 50 prohibits the transfer of a permit from one person to another, except with the permission of the Transport Authority which granted the permit. The replacement of the vehicle by another vehicle of the same nature and capacity as that covered by the permit can only be effected by the authority which granted the permit.

Again under S. 60(1) only the authority which granted the permit may cancel the permit or may suspend it for such period as it thinks fit for any of the reasons specified therein. The mere fact that the Regional authority which countersigns the permit is given the power under S. 63(2) to attach to the permit any condition which might have imposed if it had granted the permit and may likewise vary any conditions attached to the permit does not justify the inference that the authority which granted the permit, does not justify the inference that the authority which granted the permit has no jurisdiction to cancel or suspend the permit. True it is that the countersigning authority is also vested with the power to cancel or suspend the countersignature but that does not take away the power of the Primary Authority to cancel the permit. The words in sub-section (2) of S. 63, namely, "may attach to the permit any conditions which it might have imposed if it had granted the permit" empower it to attach other conditions which the Primary Authority has not attached to it.

Further, it makes a clear distinction between the authority which granted the permit and the counter-signing authority by the words "if it had granted the permit". Where therefore the Section clearly empowers the regional authority which granted the permit to cancel or suspend it for a breach of the conditions attached to the permit, there is no Justification, merely by an interference to limits it only to breaches committed within the region over which it has jurisdiction. In our view, there is nothing in Rules 152, 156, 157, 169, 188, 189, 196 or 200(b) referred to by the learned advocate which advances the case of the petitioner inasmuch as these rules deal with the procedure to be followed for countersignature, transfer of vehicles etc.

(5) The case of K. Parthasarathy Mudaliar Vs. State of Madras by Dy. Commissioner of Commercial Taxes and Another, is only an authority for the proposition that there is a right of appeal against the refusal of the Regional Transport Authority to countersign a permit under S. 63 and it is not germane to the point at issue. Further the case of Anant Bahadur Singh Vs. Ashtbhuja Bux Singh and Others, merely states that the countersignature is not a mere formality, but that does not indicate that the countersignature takes away the jurisdiction of the Primary Authority in respect of a breach of the conditions of the permit committed by the permit holder. The case of Balurghat Kaliagunge Assn. and Others Vs. S.T.A. and Others, appears to be concerned between two regional transport authorities in the same State and there is nothing in that Judgement which lends assistance to the contentions of the learned advocate for the petitioner. We have sufficiently indicated the reasons for holding that the regional authority which granted the primary has jurisdiction to cancel a permit for breach of the conditions of the permit committed in the area of the countersigning authority.

(6) The impugned order also would indicate that it is as result of the judgement of the Madras High Court in that it passed the order. That order is in the following terms:

"In Memo No. 135164-Tr. 11/51 Home dated 10-11-1951 instructions were issued by the composite Madras State that only the authority which countersigned a permit can take action under S. 60. M. v. Act in respect of a breach of a condition committed in the region to which the counter signature extends and that the Regional Transport Authority which granted the original permit in respect of a different region cannot take action under S. 60 M. v. Act for a breach of condition committed in the region of the countersigning authority.

2. On a reference from the Transport Commissioner, the question whether action against the primary as well as the countersignature is possible for an offence of unauthorised plying and in all other cases where the authority in whose jurisdiction the condition is violated can take action has been examined by the Government with reference to the instructions issued in para 1 above and the judgement of the Madras High Court in W. P. No. 280 of 1954 (Mad) in which it has been held that the power holder for breach of any of the conditions of the

permit whether the condition was imposed by the Transport Authority that countersigned the permit is limited to the suspension or cancellation of the countersignature also.

3. The Government consider that the instruction referred to in para 1 above are in conflict with the judgement of the Madras High Court. They therefore direct that these instructions be treated as cancelled. The Government also direct that in all cases where a breach of conditions common to the primary permit as well as the countersignature is committed in the area of jurisdiction of the countersigning authority only, the Transport Authority which granted the primary permit should take action under S. 60 of the M. v. Act.

The Transport Commissioner is requested to issue suitable instructions to all Regional Transport Officers in this regard.

(7) The word "also" in the second paragraph appears to be a mistake for the word "alone". The judgement of the Madras High Court in W. P. No. 280 of 1954 is not before us and we are not in a position to say what that case actually decided, except that the Government on a consideration of that judgement passed the present order. We have given time to the learned advocate for the petitioner to produce the judgement, but he has not been able to do so.

(8) In the view we have taken, we have no hesitation in rejecting this writ petition and it is accordingly dismissed with costs. Advocate's fee Rs. 100/-

(9) Writ Petition dismissed.