

(1958) 10 RAJ CK 0004
In the Rajasthan High Court
Case No : Civil Writ Petition No. 137 of 1958

Anil Bus Service and Another	Vs	APPELLANT
Appellate Tribunal of State Transport Authority and Others		RESPONDENT

Date of Decision : 17-10-1958

Acts Referred:

Motor Vehicles Act, 1939 — Section 57, 57(4), 62, 64

Citation : AIR 1959 Raj 119 : (1959) RLW 18

Hon'ble Judges : K.L. Bapna, Acting C.J.; Jagat Narayan, J

Bench : Division Bench

Advocate : J.P. Jain and J.G. Chhangani, for the Appellant; R.K. Rustogi, for the Respondent

Final Decision : Dismissed

Judgement

Jagat Narayan, J.—This is an application under Article 226 of the Constitution against an interlocutory order passed by the Appellate Authority staying the operation of the order of the Regional Transport Authority granting them temporary permits for Jaipur-Delhi route.

2. The facts which have given rise to this application are these. An agreement has recently been arrived at between the States of Rajasthan, Punjab and Delhi, in pursuance of which buses will run directly between Jaipur and Delhi. It has been decided that Rajasthan will put 4 buses and the States of Punjab and Delhi will put 2 buses each on this route. The Regional Transport Authority, Jaipur Region, accordingly invited applications for the grant of 4 temporary permits for this interstatal route pending grant of permanent permits.

Twentysix applications were filed which were considered by the Regional Transport Authority at its meeting dated 28-3-1958. Four permits were granted to M/s. Aram Bus Transport Association, M/s. Kishan Co-operative Society, Kotputli and the two petitioners. The remaining 22 applications were rejected. The only reason given by the Regional Transport Authority in its order for

preferring the four applicants was that they were more suitable than the others. The Regional Transport Authority did not say why it considered the four applicants to be more suitable than the others.

3. The twenty-two applicants whose Applns. were rejected by the Regional Transport Authority thereupon preferred an appeal to the Appellate Authority & prayed that pending final decision [he operation of the order of the Regional Transport Authority may be stayed. This prayer was allowed by the Appellate Authority by its order dated 28-4-1958 after hearing the parties including the two petitioners. The present petition has been filed against this order.

4. On behalf of the petitioners two contentions were raised. The first contention was that the Appellate Authority had no jurisdiction to entertain an appeal against an order granting temporary permits. This contention is no longer tenable in view of the decision of this Court in Bhanwarlal Vs. The Appellate Tribunal of the State Transport Authority and Others, in which it was held that an appeal lies u/s 64 against an order granting a temporary permit. The second contention on behalf of the petitioners is that none of the respondents were entitled to file an appeal before the Appellate Authority against the order granting permits as they had not taken an objection in writing to the grant of the permits to the 4 applicants to whom it was granted in proceedings for the grant of the temporary permits before the Regional Transport Authority. Reliance was placed on an unreported decision of this Court in the General Motor Bus Service v. Appellate Tribunal Civil, Writs NOSECTION 97, 134, 137 and 138 of 1956, D/-30-10-1956 (Raj).

Referring to the decision in Dholpur Co-operative Transport and Multipurpose Union Ltd. v. Appellate Authority Rajasthan RLW 1954 649 AIR 1955 Raj19 in which it was held that where an appeal has been made under Clause (a) against the refusal of a permit the Appellate Authority will generally have the right to give relief to the appellant by grant of a permit, but will not have any jurisdiction to cancel the permit granted to another person unless a foundation has been laid before the Regional Transport Authority for an appeal provided by Clause (f) by an objection by somebody entitled to appeal under that clause, their Lordships laid down that such an objection must be made in writing before the appointed date and a copy thereof should be furnished simultaneously to the persons applying for grant of permits as provided in Section 57 (4).

5. The above case is clearly distinguishable. For it related to the grant of permanent permits in which the procedure prescribed u/s 57 is to be followed. The present case relates to the grant of temporary permits in which the Regional Transport Authority is not bound to follow the procedure laid down in Section 57. The temporary permits were granted without following such procedure in this case.

The respondents therefore could not have taken an objection in the manner prescribed u/s 57 (4) in the present case. We are accordingly of the opinion that

in case of temporary permits the foundation for an appeal u/s 64 (f) can be laid by an existing operator by taking an objection orally before the Regional Transport Authority at the meeting at which the matter is dealt with by it.

6. The respondents have specifically alleged in their memorandums of appeal filed before the Appellate Authority (before the present writ application was filed) that they did take an objection orally before the Regional Transport Authority to the grant of permits to the 4 persons to whom it was granted. It will be for the Appellate Authority to decide whether or not the allegation is true.

If it comes to the finding that it is true then alone it will have jurisdiction to cancel the permits which have already been granted. As the Appellate Authority has not yet recorded any finding on the question it cannot be said that it has no jurisdiction to entertain the appeals. On the allegation made in the memorandums of appeal it has jurisdiction to entertain them and to pass an interlocutory order staying the operation, of the order of the Regional Transport Authority.

7. We accordingly hold that no case for interference by this Court with the above order has been made out. The application is therefore dismissed. In the circumstances of the case we direct that parties shall bear their own costs.