

(1960) 12 PAT CK 0019

In the Patna High Court

Case No : Misc. Judicial Case No. 773 of 1959

Anil Krishna Ghosh

APPELLANT

Vs

Appeal Board, State Transport Authority and Another

RESPONDENT

Date of Decision : 07-12-1960

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1939 — Section 64

Citation : AIR 1961 Patna 484

Hon'ble Judges : V. Ramaswami, C.J;Kanhaiya Singh, J

Bench : Division Bench

Advocate : B.C. Ghosh, Chittaranjan Ghosh and R.K. Bagchi, for the Appellant;
Add. Govt. Pleader and K.K. Saran, for the Respondent

Final Decision : Allowed

Judgement

1. This application is made on behalf of the petitioner Anil Krishna Ghose against the order of the Appeal Board of the State Transport Authority dated the 29th of October, 1959, setting aside the grant of a permit to the petitioner by the East Bihar Regional Transport Authority dated the 8th of June, 1959.

2. The order of the Regional Transport Authority was that permit would be granted to the petitioner for the route in question if the petitioner produced registration certificate of a 1959 Model Vehicle with a valid certificate of fitness and tax token within three months of the date of the order of the East Bihar Regional Transport Authority. The Appeal Board set aside this order on the ground that in the course of the proceedings of the meeting the petitioner "offered only a 1958 Model Vehicle", whereas "the others were prepared to offer a 1959 Model".

On behalf of the petitioner it was contended that the reason given by the Board for setting aside the order of the East Bihar Regional Transport Authority was quite irrelevant because the petitioner had actually complied with the condition imposed "by the order of the East Bihar Regional Transport Authority dated the

8th of June, 1959. It was submitted that the petitioner had produced a 1959 Model Vehicle with a valid certificate of fitness and tax token within three months from the date of the order, and there was no ground upon which the Appeal Board could have set aside the order granting permit in favour of the petitioner.

3. Having heard learned Counsel on behalf of both parties in this case, we are satisfied that the order of the Appeal Board dated the 29th of October, 1959, is erroneous in law. It is manifest that the reason given by the Appeal Board, namely, that in the course of the proceeding of the meeting the petitioner offered only a 1958 Model, whereas the others offered 1959 Models is not relevant for decision of the question whether the petitioner has been validly granted a transport permit.

It was submitted by learned Counsel for the petitioner that the petitioner had actually purchased a 1959 model bus and produced the registration certificate and the other necessary documents within the time given by the East Bihar Regional Transport Authority. It was however contended by learned Counsel on behalf of respondent No. 2" that the condition imposed by the order of the East Bihar Regional Transport Authority was not complied with within the time granted as the petitioner did not produce registration certificate and the other documents within the time granted.

But that is not the ground upon which the Appeal Board has set aside the order of the East Bihar Regional Transport Authority in this case. In our opinion, the reason actually given by the Appeal Board is irrelevant. In other words, the order of the Appeal Board is arbitrary and vitiated in law. In exercise, therefore, of our authority under Article 226 of the Constitution we set aside the order of the Appeal Board of the State Transport Authority dated the 29th of October, 1959, and order that the appeal should go back for rehearing before the Appeal Board of the State Transport Authority for being dealt with in accordance with law.

4. We accordingly allow this application. There will be no order as to costs.