
(2022) 04 RAJ CK 0115

In the Rajasthan High Court

Case No : D.B. Special Appeal Writ No. 526, 927, 1080 Of 2019

Anil Kumar And Others

APPELLANT

Vs

Secretary, State Transport Authority And Other

RESPONDENT

Date of Decision : 27-04-2022

Acts Referred:

Motor Vehicles Act, 1988 — Section 80, 80(3), 100, 103(4)

Citation : (2022) 04 RAJ CK 0115

Hon'ble Judges : Sandeep Mehta, J;Farjand Ali, J

Bench : Division Bench

Advocate : Bharat Vyas, Deendayal Purohit, B.L. Tiwari, R.S. Rajawat, Sunil Beniwal,

Final Decision : Dismissed

Judgement

Sandeep Mehta, J

1. These special appeals and writ petition involve common controversy relating to inclusion of routes beyond 24 Kms. in existing state carriage permits and hence, the same have been heard and are being decided together by this order.

D.B. Special Appeal (Writ) No.1080/2019 has been preferred by the appellant Anil Kumar being aggrieved by the rejection of his interim relief (stay application) by the learned Single Judge of this Court by order dated 02.08.2019 in S.B. Civil Writ Petition No.9667/2019 at Jaipur Bench [Now registered as Writ Petition No.13059/2019 before this Court]. The said Single Bench writ petition has also been tagged with the instant bunch and hence, the same is also being decided by this order.

D.B. Special Appeal (Writ) Nos.526/2019 and 927/2019 have been filed by Shri Mool Singh with almost identical prayers for assailing the Judgment dated 30.01.2019 passed by the learned Single Bench of this Court in S.B. Civil Writ Petition Nos.9584/2018 and 9604/2018 filed by the appellant writ petitioner Mool Singh.

2. Briefly stated background facts necessary for disposal of the appeals and the writ petition are noted herein below:

The appellants writ petitioners Mool Singh and Shri Anil Kumar are private bus operators plying buses on the strength of State Carriage Permits granted to them for designated routes. A modified Scheme was introduced by the State Transport Authority in the year 2015 and applications were invited for inclusion of new routes in the specified routes covered by existing permits. The applications filed by the respective applicants were allowed by the State Transport Authority and the inclusions as prayed for were permitted. By way of inclusion, the existing permit routes of the petitioner Anil Kumar as well as the private respondents impleaded in the writ petitions filed by Shri Mool Singh and the route of Shri Mool Singh himself were extended to distances beyond 24 Kms. which is the bone of contention between the parties before this Court. The learned Single Bench, accepted the writ petitions filed by Shri Mool Singh and directed that the length of the original route under the permit could not be exceeded beyond 24 Kms. through inclusion under the modified scheme as the plain language of second proviso to Section 80(3) of the Motor Vehicles Act prohibits such extension/inclusion. As a consequence, not only were the extensions granted in favour of the private respondents were quashed, a similar order passed by the State Transport Authority extending the permit of the second writ petitioner Mool Singh himself beyond the permissible limits (as per proviso to Section 80(3) of the Motor Vehicles Act) was also quashed.

Anil Kumar was having a State Carriage Permit on the route "Bikaner to Ratangarh", and was granted extension of 88 Kms. till Tamkor by way of inclusion in the original State Carriage Permit. Such extension was challenged by Shri Abdul Rashid by filing an appeal before the State Transport Appellate Tribunal which was allowed and the extended route permit of the petitioner Anil Kumar was quashed by order dated 17.05.2019. The said order was challenged by Anil Kumar by filing S.B. Civil Writ Petition No.9667/2019 before the Rajasthan High Court, Bench at Jaipur. The learned Single Bench at Jaipur Bench rejected the interim stay application of the petitioner by order dated 02.08.2019 which is assailed by Shri Anil Kumar in D.B. Special Appeal (Writ) No.1080/2019 (No.1222/2019 before Rajasthan High Court Bench at Jaipur).

3. Shri Bharat Vyas, learned Senior Counsel assisted by Shri Deendayal Purohit, Advocate representing Shri Anil Kumar, vehemently and fervently urged that the view taken by the learned Single Bench while deciding the writ petitions of Gopal Purohit and Mool Singh, is absolutely illegal and dehors the provisions of the Motor Vehicles Act. Shri Vyas urged that the Transport Department, invited applications from the aspiring permit holders for extension/ inclusion in routes and existing schemes were modified vide Notification dated 29.05.2015. In this notification, there was no such indication that the extension/ inclusion would not exceed beyond 24 Kms. The petitioner Anil Kumar applied for extension of his existing route from Bikaner to Ratangarh till Tamkor and the State Transport

Authority, after inviting objections, accepted the same vide order dated 04.01.2017 and the termini Tamkor was included in the route permit granted to the petitioner which worked out to an extension of 88 Kms. The respondent No.3 Abdul Rashid filed a highly belated appeal in the STAT against the extension of route permit granted to the petitioner Anil Kumar by order dated 04.01.2017. A pertinent objection was raised on behalf of the petitioner Anil Kumar before the STAT that the appeal could not be entertained as it was hopelessly time barred. But without advertent to this pertinent legal objection of the petitioner, the limitation was condoned in an arbitrary manner and the STAT reviewed its earlier order and cancelled the extension/inclusion of route granted in favour of the petitioner Anil Kumar, by order dated 17.05.2019 which is grossly illegal.

Shri Bharat Vyas, further contended that Section 80(3) of the Motor Vehicles Act has to be read in two parts. The first part does not govern the length of the newly included route. The operation of the proviso has to be restricted only to cases of variations and not in cases of inclusion.

Shri Vyas urged that from a harmonious construction of Sections 100, 103(4) with Section 80 of the Motor Vehicles Act, it is manifest that the view taken by the learned Single Bench in Judgment dated 30.01.2019 does not lay down the correct legal proposition and as such, the same deserves to be reversed.

4. Shri B.L. Tiwari, learned counsel representing the appellant writ petitioner Mool Singh in Appeals Nos.526/2019 and 927/2019, urged that the learned Single Bench was absolutely unjustified in curtailing the extended route permit granted to the petitioner Mool Singh who had approached the Court in a bonafide manner to question the illegal extensions granted to the private respondents and as such, there was no justification to cancel the extended route permit of the petitioner which was not under challenge. The learned Single Bench, committed gross error apparent on the face of the record while directing curtailment of the route permit of the writ petitioner which was not called into question and hence, the direction given by the learned Single Bench to this extent in the order dated 30.01.2019 is absolutely illegal.

4. Shri Sunil Beniwal, learned AAG, supported the view taken by learned Single Bench and sought affirmation of the order dated 30.01.2019 passed by the learned Single Bench.

5. Shri R.S. Rajawat, learned counsel representing the private respondents, vehemently and fervently urged that the language of the second proviso to Section 80(3) of the Motor Vehicles Act leaves no room for doubt that neither any inclusion nor any variation in the route is permissible beyond 24 Kms. and hence, he urged that the hyper-technical argument advanced on behalf of the appellant Anil Kumar that the appeal preferred by the private respondent before the STAT was time barred, would not espouse or substantiate the claim of the permit holders who had been granted extension of permit which takes their termini beyond 24 Kms. by grossly flouting the statutory provision. On these

grounds, Shri Rajawat implored the Court to dismiss the appeals as well as the writ petition.

6. We have given our thoughtful consideration to the submissions advanced at bar and, have gone through the order passed by the learned Single Bench; the order passed by the STAT in the appeal filed by Abdul Rashid and the relevant statutory provisions.

7. We are of the firm view that the arguments advanced by Shri Bharat Vyas questioning the correctness of the view taken by the learned Single Bench in Judgment dated 30.01.2019, lacks merit. Ex-facie, on a bare reading of the statutory provision i.e. second proviso to Section 80(3) of the Motor Vehicles Act, it becomes clear that the proviso governs all purported extensions/variations in the specified routes. The proviso mandates that in case of variation, the termini shall not be altered and the distance covered by the variation shall not exceed 24 Kms. A plain reading of the first part of the proviso would indicate that in case, State Carriage permit holder has a valid permit for operating from Point A to Point B then the route can be diverted without altering the termini i.e. point B. In such a situation, the variation would be restricted to 24 Kms. without altering the initial stop and the termini under the original permit. In the second situation, which deals with extension, it shall not exceed 24 Kms. from the termini. This would imply that the route can be extended to a maximum distance of 24 Kms. from the Point No.B which was the original termini point approved under the permit. There is no reason for us to accept the argument of Shri Vyas that this proviso has to be read in isolation and that sub-section (3) of Section 80 of the Motor Vehicles Act itself permits inclusion of a new route or an altered route without it being governed by the proviso. Such interpretation would amount doing violence with the statute and is unacceptable.

8. As a consequence of the discussion made herein above, we are of the firm opinion that the plea put-forth in the writ petition (13059/2019) filed by Shri Anil Kumar for assailing the order dated 17.05.2019 passed by the STAT is untenable and the writ petition is not fit to be accepted and is consequently rejected as being devoid of merit. Resultantly, D.B. Special Appeal (Writ) No.1080/2019, which has been preferred for assailing the rejection of the interim relief application in the said writ petition, also fails and is dismissed.

Regarding the appeals (D.B. Special Appeal (Writ) Nos.526/2019 and 927/2019) preferred by Shri Mool Singh wherein challenge is given to the direction passed by the learned Single Bench in the writ petition of Shri Mool Singh quashing the extension of route granted to the writ petitioner on the ground that the same exceeds the mandatory outer limit of 24 Kms. as per second proviso to sub-section (3) of Section 80 of the Motor Vehicles Act, the said direction of the learned Single Bench is absolutely justified because had the extended route permit issued to Mool Singh been sustained, it would amount to clear violation of the statutory provision and the interpretation thereof made by the learned Single Bench in the writ petitions and would also cause unjust discrimination amongst

similarly situated persons.

Consequently, the appeals preferred by Shri Mool Singh also fail and are hereby rejected.

9. No order as to cost.

10. A copy of this order be placed in each file.