

(2010) 03 KAR CK 0112
In the Karnataka High Court
Case No : Writ Petition No's. 2064-66 of 2010

Anjnappa

APPELLANT

Vs

Regional Transport Authority and The Karnataka State Road
Transport Corporation

RESPONDENT

Date of Decision : 17-03-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 100 (3), 104, 69

Citation : (2010) 03 KAR CK 0112

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : Sriyuths Puthige R. Ramesh and Lakshmi S. Holla, for the Appellant;
Sriyuths K.N. Shivayogiswamy, HCGP for R1 and Kaleemulla Shariff, for R2, for
the Respondent

Final Decision : Dismissed

Judgement

Ram Mohan Reddy, J.—Petitioner having made 3 applications dt. 18.8.2006 for grant of fresh Stage Carriage permits for route Menasinahalli to Bangalore; Attibele Cross to Bangalore; Bangalore to Attibele Cross, when considered along with 97 other applications for similar such Stage Carriage Permits by the Regional Transport Authority, Bangalore (Rural), resulting in a common order dt. 1.12.2006 granting the applications, when called in question by the Karnataka State Road Transport Corporation in Revision Petition Nos. 143/2007, 114/2007 and 121/2007 before the Karnataka State Transport Appellate Tribunal for short "KSTAT, the order was set aside and the Revision Petitions allowed by common order dt. 31st December 2009, Annexure "A" Hence these Writ Petitions.

2. Having heard the learned Counsel for the parties, perused the pleading and examined the order impugned, the KSTAT set aside the order of the Regional Transport Authority, Bangalore (Rural) holding that;

(1) That the Regional Transport Authority, Bangalore (Rural) did not have the territorial jurisdiction to consider the petitioner's application for grant of fresh

Stage Carriage Permit for route Menasinahalli to Bangalore; Attibele cross to Bangalore and Bangalore to Attibele, as the major portions of the routes would fall within the territorial jurisdiction of the Regional Transport Authority, Bangalore (Urban).

(2) That a Joint Route Survey of the route was not conducted before considering the petitioner's application and that certain lengths of route in question overlaps the Anekal Scheme, BTS Scheme, Kanakapura Scheme, excluding all private operators from operating on the said route. (3) That the order dt. 1.12.2006 considered enmass 100 applications and without application of mind by a non-speaking order granted the permits.

3. Learned Counsel for the petitioner submits that the respondent - Road Transport Corporation did not advance a plea over the jurisdiction of the Regional Transport Authority, Bangalore (Rural] to consider the applications and had that been done, the Authority would have been put on guard.

4. Per contra the learned Counsel for the KSRTC submits that such an objection was indeed raised and not considered by the Regional Transport Authority, Bangalore (Urban).

5. The question is over the initial jurisdiction to consider the applications for grant of Stage Carriage Permits. The territorial jurisdiction of the Regional

Transport Authority, Bangalore (Rural) having been specifically set out in the notification dt. 11th November 1992 that the limits of the Bangalore (Rural) District, Revenue shall be the limit of the Regional Transport Authority, Bangalore (Rural), while the limits of the Bangalore (Urban) District Revenue would be the limits of the Regional Transport Authority, Bangalore (Urban), it was for the Authority to decide its jurisdiction before considering the applications. More so in view of the 1st proviso to Section 69 of the Motor Vehicle Act, 1988 that the use of vehicle or vehicles in two or more regions lie 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. Thus it was for the Regional Transport Authority, Bangalore (Rural) to ascertain its jurisdiction before the grant of permit. The KSTAT having observed that the major portion of the routes for which the permits applied for lie within the jurisdiction of the Regional Transport Authority, Bangalore (Urban), the petitioner's applications filed before the Regional Transport Authority, Bangalore (Rural), was required to be rejected as without jurisdiction. Apparently the petitioner did not make out a case that the vehicle is proposed to be kept within the region falling within the limits of the Regional Transport Authority, Bangalore (Rural) on the premise that the portion of the proposed route fell approximately equal in both the regions. In my considered opinion, no exception can be taken to the findings of the KSTAT.

6. It is next contended that Annexure "B" & "C" are the joint route survey for the route Menasinahalli to Bangalore and back and Bangalore to Attibele Cross and back being the very same routes for which permits were applied for, there was no necessity in law to hold a fresh Joint Route Survey for the very same routes. This contention too, I am afraid on facts, cannot be countenanced. A bare perusal of the routes set. out in the permits, Annexures "G", "H" and "J" do not disclose that the routes are identical to the very same routes as found in the Joint Route Survey, Annexures "B" & "C". Secondly, the Joint Route Survey reports, Annexures "B" & "C" are much prior in point of time to the petitioner's applications dt. 18.8.2006 and on that score too the said Joint Route Survey Reports are inapplicable to the claim of the petitioner.

7. Though the learned Counsel for the petitioner contends that slight deviation in the route should not. come in the way of the Authority taking into consideration the Joint Route Survey, Annexures "B" & "C", I am not impressed by that submission. In Karnataka State Road Transport Corporation Vs. Sri. Pauli Govis and another etc., , the learned Single Judge of this Court having regard to the scheme published u/s 100(3) of the MV Act 1988 observed thus:

Terms of Section 104 and the jurisdiction of the Authority to grant a permit depending upon the existence or non existence of a Scheme and the total or partial ban it may contain against any private operator, operating a service on a notified route, determination of these facts would be essential as jurisdictional facts without which the Authority concerned cannot take a proper decision in the matter also that the RTA is required to cause a route survey to be made in presence of the parties in order to determine whether or not the routes granted permits over - laps any portion of the notified route under the Scheme, amongst other directions including a direction to the Secretary to Government, Transport Department to take steps to issue instructions to all the R.T. As concerned to follow the procedure set-out in the judgment while considering the applications for grant of permits.

8. Apparently either the State has failed in complying with the directions issued by this Court or is deliberate action of the Regional Transport Authority, Bangalore (Rural) in refusing to comply with the directions issued by this Court while considering the petitioner's applications for grant of Stage Carriage Permit. Having regard to the factual position as adverted to by the KSTAT in the order impugned coupled with the reported opinion in Paul Goui's case supra, no exception can be taken to the reasons findings and conclusions arrived at by the KSTAT.

9. According to the learned Counsel, the KSTAT ought to have remitted the proceedings to the Regional Transport Authority, Bangalore (Urban) for fresh consideration, since the vehicles running on a permit cannot be stopped. This contention in my opinion, cannot be countenanced. Every application for grant of Stage Carriage Permit is required to be filed before the Regional Transport Authority having jurisdiction to grant such a permit in respect of the route sought

for. In other words the Regional Transport Authority must have the territorial jurisdiction in respect of a route to consider the application and grant permit, if found eligible. Filing of the application before the Regional Transport Authority which has no jurisdiction to entertain the application is as good as no application having been filed. The question as to whether the Regional Transport Authority having a particular territorial jurisdiction is required to return the application for representation before another Regional Transport Authority having jurisdiction, the authority not being a Civil Court for the purpose of application of the Code of Civil Procedure, such a procedure is impermissible. Even otherwise the 1999 Act ushered in a new regime of free enterprise in the matter of issue of permits without much ado as it was under the repealed Act. In that view of the matter petitioners could present fresh applications before the Regional Transport Authority, Bangalore (Urban) having territorial jurisdiction to grant permits, if eligible and entitled. In that view of the matter the KSTAT cannot but be said to be justified in not adopting a course as the learned Counsel contends.

10. This Court has on umpteen number of occasions pointed out to innumerable illegalities, irregularities as well as irrational orders of the Regional Transport Authorities while this is one such case where 100 applications together are taken up for consideration, and a common order passed granting Stage Carriage Permits without exerting itself to the provisions of the Act and the law laid by this Court. Since the composition of the Regional Transport Authority includes the Deputy Commissioner, Superintendent of Police and other Officers of the State, it is rather intriguing as to how these officials discharge duties, responsibilities and functions of the State in a manner not befitting such high positions in the matter of grant of Stage Carriage Permits. In order to stem this rot, the Principal Secretary, Transport Department is directed to hold an inquiry into the grant of 100 permits by the Regional Transport Authority, Bangalore (Rural) without having jurisdiction and thereafter to identify the Officers responsible and file the report with the Registrar General of this Court within six months.

Writ Petitions are rejected.