

(2011) 02 RAJ CK 0035

In the Rajasthan High Court

Case No : Civil Writ Petition No. 12968 of 2008

Anmol Bus Service

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 03-02-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 88(5), 88(6)

Citation : AIR 2011 Raj 74 : (2011) 8 RCR(Civil) 2350

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajay Rastogi, J.—Both the cognate cases involving common controversy, at joint request, have been finally heard and disposed of at admission stage.

2. Both the petitions have been filed by private motor vehicle operator assailing reciprocal transport agreements having been executed and notified on 12-9-2008 (Ann. 19) and the permit granted in favour of State Transport Undertaking to ply its vehicle on the route (Hissar-Mahavirji via Narnaul-Behror-Alwar-Rajgarh-Mahwa-Hindaun)are saved; whereas 2nd petition has been filed after revision 07/08 being dismissed by State Transport Appellate Tribunal vide judgment dated 24-3-2009 (Ann. 24-CWP-8751/2009).

3. It has not been disputed that the route (Hissar-Mahavirji) is an inter-State nationalised route and initially on 15-7-1997 inter-State agreement (Ann. I-CWP-8751/ 2009) was executed on reciprocal basis having been duly notified in Gazette wherein the present route finds place at S. No. 18 in the schedule of Inter-State routes on which RSRTC and Haryana Roadways shall ply their buses. Pursuant to aforesaid reciprocal agreement, Rajasthan State Road Transport Corporation ("RSRTC") was granted permit, which, as informed, was renewed upto the year 2012.

4. At a later stage, a draft agreement in between State of Rajasthan and State of

Haryana was circulated and notified on 1-5-2008 (Ann. 1-CWP-12968/08) as per which the route (Hissar-Mahavirji) impugned stood deleted and after the objections being raised by operator/ person aggrieved were disposed of and final inter-State agreement was published in official gazette on 12-9-2008 (Ann. 19-CWP-12968/08) and as per its Clause 4 (x), a condition has been stipulated that all previous stage carriage permits duly countersigned by either State before coming into force of the agreement pursuant thereto shall remain in force and the permit granted for the route impugned has been continued in favour of State Corporation obviously from the date thereof.

5. After final agreement was executed and the route in regard to which Petitioner-private Bus operator being aggrieved and the objection, as alleged, remained unanswered by the committee constituted, CWP-12968/ 2008 was preferred; but against rejection of their objection, revision was also filed before the Tribunal; that too was rejected vide judgment dt/- 24-3-2009 against which CWP-8751/2009 has been preferred.

6. Main thrust of the contentions of counsel for Petitioner is that once inter-State route draft reciprocal agreement D/-1-5-2008 was notified, the permit which at one stage was granted to RSRTC pursuant to earlier reciprocal agreement, did not remain in force and Respondents were under obligation to decide objections raised by aggrieved parties in terms of Section 88(5) of Motor Vehicles Act, 1988 ("MV ACT") and as per final agreement D/- 12-9-2008 impugned herein, if the route (Hissar-Mahavirji) is not available for State Transport Undertaking, and stood deleted from the schedule attached to reciprocal agreement impugned, at least private bus operators could be permitted to ply their vehicle since ultimately transport facility is provided for public at large, which are likely to suffer on account of inter-State route in question being not available either to private operator or to the State Corporation, as is evident from the information which the Petitioner obtained from Regional Transport Authority, Alwar that no vehicle on the route impugned is being plied by the State Corporation - taking support thereof, counsel submits that if the RSRTC is not plying its buses on the route impugned, the Regional Transport Authority Alwar was not justified in not granting permit to the private operators to ply their vehicles and the finding recorded by the Tribunal in this regard being arbitrary and without application of mind deserves interference.

7. Counsel further submits that since the Respondents have failed to apply mind on the objections submitted u/s 88(6) of MV Act, and the Tribunal has not applied its mind while examining their objections, which the authority were under obligation to examine and decide in accordance with law; in such circumstances, the finding recorded by the Tribunal under judgment impugned so also the order of Respondents impugned deserve to be set aside.

8. Reply to the writ petition has been filed and while supporting the judgment of the Tribunal impugned and the notification dated 12-9-2008, Government counsel submits that the inter-State route is a nationalized route and the permit

was granted in favour of RSRTC (State Transport Undertaking) for nationalized route (Hissar-Mahavirji) while final agreement being published; by virtue of Clause 4 (x) all the previous stage carriage permits were saved and there was no occasion for Respondents to assign any detailed reasons; moreso, when the route impugned was not available for private operators to ply their vehicles and thus Respondents have not committed any error in taking final decision regarding objections raised by Petitioner and the Tribunal while disposing of revision vide judgment impugned recorded a finding that when the route, itself, was not open for private operators, there was no occasion for Respondents to examine objections in details and this being a policy matter, it is for the State Government to take its decision as to whether the route is to be made available for private operators or to ply vehicles through RSRTC (State Transport Undertaking) over Nationalised route and in such circumstances, the finding recorded does not call for interference.

9. However, counsel for RSRTC supported the contentions made by Government counsel.

10. This Court has considered rival contentions advanced at the bar and with their assistance, examined material on record. It is clearly manifest from the record that under reciprocal agreement D/- 15-7-97 duly notified in the gazette, present route impugned was one of the routes specified in Schedule attached thereto pertaining to Inter-State routes, specified at S. No. 18; however, while final reciprocal agreement D/-12-9-2008 being notified, this route impugned was indisputably deleted obviously for the reason that pursuant to Clause 4 (x), all permits earlier granted to State Transport Authority were saved and shall remain in force and after the objections being raised in regard to draft agreement, the same was examined by the committee and decided in accordance with law.

11. Submission made by counsel for Petitioner that the State Transport Undertaking (RSRTC) is not plying its vehicle and the permit having been granted to the RSRTC after final inter-State route agreement D/-12-9-2008 upon the route impugned being deleted, no such valid permit can be continued, is without substance for the reason that if the permit was indisputably granted to the RSRTC pursuant to earlier agreement D/-15-7-1997 and renewed from time to time and by virtue of Clause 4(x) of latter final agreement D/- 12-9-2008, it was saved and the State Transport Undertaking (RSRTC) was permitted to ply its vehicle on inter-State route impugned and no error was committed by the Respondent.

12. As regards further submission that objection raised by Petitioner have not been examined by the Respondent authority, is also bereft of merit for the reason that when the route, impugned itself, was not available for private operators to ply on a nationalized route, and it being not incorporated in draft agreement, obviously there was no occasion for the State and the Committee constituted to still examine and give its detailed finding regarding objections raised u/s 88(5) of MV Act. This has also been considered in details by the

Tribunal vide judgment impugned while disposing revision. This Court finds no manifest error being committed which may call for interference in the judgments and orders impugned herein.

13. Consequently, both the writ petitions fail and are hereby dismissed. No costs.