
(1960) 02 KL CK 0015
In the High Court Of Kerala
Case No : O. P. No. 501 of 1959

Antony

APPELLANT

Vs

R. T. A., Kottayam

RESPONDENT

Date of Decision : 26-02-1960

Acts Referred:

Motor Vehicles Act, 1939 — Section 47(1)(c), 48(3)

Citation : (1960) KLJ 532

Hon'ble Judges : S. Velu Pillai, J

Bench : Single Bench

Advocate : K.S. Sebastian, for the Appellant;

Final Decision : Dismissed

Judgement

Velu Pillai, J.

The Regional Transport Authority, Kottayam issued a notification, Ext. P. 2, on March 6, 1959, inviting applications for four additional stage carriage permits for the Palai-Erumely route via Ponkunnam and the 26th mile. In making this notification, the Regional Transport Authority stated, that at its meeting held on January 9, 1959, it had "decided to sanction four additional stage carriage permits". The first contention advanced by the petitioner to quash Ext. P. 2 was, that the Regional Transport Authority had already made up its mind to issue the additional stage carriage permits and that the petitioners and others are therefore disabled from questioning the propriety of the decision to grant additional permits. The notification has been issued under the latter part of Section 57 (2) of the Motor Vehicles Act, 1939, which may be referred to as the Act, and reads:

An application for a stage carriage permit.....shall be made.....if the Regional Transport Authority appoints dates for the receipt of such applications, on such dates.

Sub-section (3) of Section 57 provides, that on receipt of the application for a

permit, the Authority shall take certain steps, and allow representations to be made within a stated time. These representations may be made u/s 47, by persons, like the petitioner, already providing passenger transport facilities along or near the proposed route. The Section also prescribes the matters which the Regional Transport Authority shall take into consideration, in deciding whether a permit may be issued or not. In particular, Section 47 (1) (c) says, that "the benefit to any particular locality or localities likely to be afforded by the service" is also one of such matters which the Authority must take into consideration. It is therefore clear, that under the Act the petitioner has still a right, notwithstanding the use of the word "decided" in Ext. P. 2., to make representations, not only as to the claims of the several applicants for permits, but also as to the propriety of sanctioning additional permits. This was the interpretation placed on the above provisions of the Act, by a Division Bench of the Allahabad High Court in Lakshmi Chand Vs. Regional Transport Authority, Agra and Another, , in which the learned Chief Justice observed :

"It is clear therefore that as soon as the Regional Transport Authority takes up the question whether it should grant a permit to a person who has applied for it pursuant to the notice.....the appellant will be entitled to make a representation against the grant of such a permit and he may do so on the ground inter alia that the existing road passenger service.....is already adequate and that it is not in the interest of public that any further permit should be issued."

On the mere ground that a wrong word "decided" has been employed, Ext. P. 2 cannot be quashed. The second contention was, that the direction in the notification, that "permits will be issued only to vehicles of 1957 or later model" is contrary to the provisions of the Act and ought to be struck down, and reliance was placed on Mangilal Sharma v. Appellate Tribunal of State Transport Authority, A. I. R. 1957 Rajasthan 167, which was decided under the Motor Vehicles Act before it was amended by Act C of 1956 and where it was held, that there was no provision in Section 48, as it then was, or in the rules framed, which gave power to the Authority to prescribe the year of the model of the stage carriage for which a permit can be granted. But it is now provided by Section 48 (3) as amended, that the Regional Transport Authority "may grant the permit for a service of stage carriages of a specified description....." and by clause (ix), that the Authority may attach a condition to the permit, that "vehicles of specified types.....shall be used". An argument was advanced, that the word "types" cannot cover models; I do not see why it should not, if the word may be liberally interpreted. However, the words "specified description" in sub-section (3) are of sufficient amplitude, as to cover a direction of the kind made. It is only reasonable, that such power should exist in a Regional Transport Authority, in the interest of the safety of the public. Even here, there being nothing restrictive in Section 47 of the Act, the petitioner can make the representation, that the condition as to the model is either unnecessary or may be relaxed. There is no ground for interference with this direction in Ext. P. 2.

2. The third contention was, that the petitioner had already made an application for the Palai-Ponkunnam route proposed to be opened in the year 1955, but that the proposal had not been implemented, on account of a report of the Executive Engineer, that the road was not fit for traffic, and if, as the present proposal implies, the road is now fit for traffic, the priority of his application would be lost to the petitioner. There is no substance in this contention, for the present proposal relates to a longer and therefore a different route, and from what appears, the authority has no present intention to proceed with the original proposal to open Palai-Ponkunnam route. No exception can be taken to the course of action pursued by the Regional Transport Authority; if however, at any future stage, the Authority considers it necessary to give effect to the former proposal and open the route, Palai-Ponkunnam, all rights of priority, if any, which the petitioner can put forward, may be available to him. The priority claimed does not avail the petitioner in these proceedings. It follows, that the petition has only to be dismissed and it is dismissed, but with the above observations. I make no order as to costs.