

(1969) 01 AP CK 0003

In the Andhra Pradesh High Court

Case No : Writ Petition No. 391 of 1965

B. Bheemeswar Rao

APPELLANT

Vs

The State of Andhra Pradesh and Another

RESPONDENT

Date of Decision : 21-01-1969

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 32 Rule 1
Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1939 — Section 46, 64

Citation : AIR 1970 AP 395

Hon'ble Judges : Madhava Reddy, J

Bench : Single Bench

Advocate : P. Babulu Reddy and E.P.K. Sikhamani, for the Appellant; Govt. Pleader and K. Mangachari, for the Respondent

Judgement

Madhava Reddy, J.—This petition invoking the extraordinary jurisdiction of the Court under Art, 226 of the Constitution of India, is directed against the order of the Government contained in G. o. Ms. No. 445 dated 23rd February, 1965 passed in exercise of its revisional jurisdiction u/s 64-A of the Motor vehicles Act.

2. The petitioner herein is the respondent No. 2 and one of the unsuccessful applicants before the Regional Transport Authority, Visakhapatnam, which by its order dated 23-12-1961 granted a stage carriage permit on route Koda to Visakhapatnam, to respondent NO. 2 herein. The petitioner preferred an appeal before the appellate authority which, by its order dated 16-7-1964, allowed the appeal and granted permit in his favour. On a revision petition filed by the 2nd respondent herein, the government, by its order now impugned in this writ petition, restored the order of the Regional Transport Authority.

3. In this petition, the only point that is argued by Mr. Sikhamani, the learned counsel for the petitioner, is that the application for the grant of a stage carriage permit filed by the 2nd respondent herein was not maintainable as he was a minor on that date and was not represented by his next friend, and for the same

reason, he contends that the revision petition filed by him was also not maintainable. It is not denied by the 2nd respondent that he was a minor both on the date of the application for stage carriage permit as well as on the date when he filed the revision petition before the Government. he was declared a major during the pendency of this writ petition. However the question is. Does the Motor Vehicles Act require an application for the grant of a stage carriage permit to be filed only by a major or by a minor only through a next friend? I do not find any such provision in that Act. On the contrary, the Act contemplates that a permit could be granted in favour of the minor and in such an event, the name of the guardian or next friend of the minor shall be entered in the permit. Mr. Sikhamani, the learned counsel for the petitioner, however, contends that in view of Order 32 of the Civil P. C., no proceeding can be taken by or against a minor except through a next friend or a guardian, and in view of the said provision, the application for the grant of a permit admittedly filed by the minor without a next friend must be held to be not maintainable. I am unable to agree with this contention. the Motor vehicles Act does not made the provisions of the Civil P. C. applicable to the proceedings that are taken under the said Act. It is only because the Civil P. C. provides that no proceedings shall be taken by or against a minor except through a next friend or guardian that a proceeding by a minor to which the Civil P. C. applies has to be through a next friend, But for that provision, the minor would not have been precluded from taking any proceeding in his own name. The Motor vehicles Act is a special and self-contained Act to which the provisions of Civil P. C. are not made applicable. that being so an application filed by a minor without a next friend under the Motor Vehicles Act for the grant of a stage carriage permit cannot be held to be incompetent. Fro the same reason the revision partition also filed by the minor cannot be held to be untenable. I, therefore, hold that the petition as well as the revision petition were property entertained and disposed of by the authorities concerned.

4. It was next contended that the Government, in disposing of the revision, has not referred to the several reasons given by the appellate authority for reversing the order of the Regional Transport Authority. What the revisional authority, in exercise of its jurisdiction u/s 64-A of the Act has to do is to satisfy himself as to the legality, regularity or propriety of such order or proceedings and after examining such records pass such order as it thinks fit and proper. I find that the Government, in exercising its revisional jurisdiction, his given a cogent reason for granting the stage, carriage permit in favour of the 2nd respondent herein. That apart, it was merely restoring the order of the Regional Transport Authority which has given the reasons for preferring the 2nd respondent herein to the petitioner in respect of the grant of a stage carriage permit. I do not think this is a fit case which calls for the interference of this Court in exercise of its extraordinary jurisdiction. For these reasons, this writ petitions fails and is dismissed, but in the circumstances of the case, I made no order as to costs. Advocate's fee Rs. 100/-.

5. Petition dismissed.