
(2014) 06 KAR CK 0162
In the Karnataka High Court
Case No : Writ Petition No. 55533/2013 (MV)

B. Muddukrishna	Vs	APPELLANT
Regional Transport Authority (RTA)		RESPONDENT

Date of Decision : 02-06-2014

Acts Referred:

Citation : (2014) 5 KarLJ 423

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : H.B. Nagaraja, Advocate for the Appellant; T.K. Vedamurthy, HCGP for R-1 and R-2, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Ram Mohan Reddy, J.—The rejection of petitioner's application for renewal of permit No. 63/2000-01 by order dated 17.10.2011 pronounced on 22.11.2011 of the Regional Transport Authority, Davanagere, led to the filing of appeal No. 1304/2011 before the Karnataka State Transport Appellate Tribunal. The contentious issue before the appellate tribunal was, "Whether the petitioner did operate services on 01.04.2002 so as to be termed a saved operator under the Bellary Modified Scheme dated 24.07.2003"? The Tribunal after having extracted the relevant portion of the modified Bellary scheme dated 24.07.2003, in its order dated 02.06.2012, Annexure-E observed that petitioner did not operate the services on 01.04.2002 hence, did not comply with the statutory requirement under the modified scheme to be termed a saved operator and accordingly, rejected the appeal.

2. Although learned Counsel for petitioner submits that a Division Bench of this Court in W.A. No. 5590/2012 in the case of G.T. Vijaya Kumar vs. Regional Transport Authority, Davanagere, Annexure-G, observed that in the context of the Bellary Modified Scheme on payment of compounding fee of Rs. 10,000/-, a presumption that the stage carriage was in operation as on 01.04.2002 and hence the permit holder was a saved operator, with great respect is unacceptable

in the light of the observations of the Apex Court in *Mithilesh Garg, Vs. Union of India and others etc. etc.*, , which reads thus:

A comparative reading of the provisions of the Act and the old Act (1939) makes it clear that the procedure for grant of permits under the new Act has been liberalized to such an extent that an intended operator can get a permit for asking irrespective of the number of operators already in the field. The scheme envisaged under Sections 47 and 57 of the old Act has been completely done away with by the Act. The right of existing operators to file objections and the provision to impose limit on the number of permits have been taken away. There is no similar provision to that of Section 47 and Section 57 under the new Act. The Statement of Objects and Reasons of the Act shows that the purpose of bringing in the Act was to liberalise the grant of permits.

There is no threat of any kind whatsoever under the new Act from any authority to the enjoyment of the right of the existing operators under Article 19(1)(g) to carry on the occupation of transport operators. More operators mean healthy competition and efficient transport system. Over crowded buses, passengers standing in the aisle, persons clinging to the bus-doors and even sitting on the roof-top are some of the common sights in this country. More often one finds a bus which has noisy engine, old upholstery, uncomfortable seats and continuous emission of black smoke from the exhaust pipe. It is, therefore, necessary that there should be plenty of operators on every route to provide ample choice to the commuter-public to board the vehicle of their choice and patronize the operator who is providing the best service. Even otherwise the liberal policy is likely to help in the elimination of corruption and favouritism in the process of granting permits. Restricted licensing under the hands of few persons thereby giving rise to a kind of monopoly, adversely affecting the public interest. It cannot be said that too many operators on a route are likely to affect adversely the interest of weaker section of the profession. The transport business is bound to be ironed out ultimately by the rationale of demand and supply. Cost of a vehicle being as it is the business requires huge investment. The intending operators are likely to be conscious of the economics underlying the profession. Only such number of vehicles would finally remain in operation on a particular route as are economically viable. In any case the transport system in a state is meant for the benefit and convenience of the public. The policy to grant permits liberally under the Act is directed towards the said goal.

3. Again in the admitted fact that the petitioner permit holder did not operate the services as on 01.04.2002, hence did not comply with the precedent to be termed a saved operator under the Bellary Modified Scheme. Moreover, the said scheme does not provide for payment of penalty to entitle the petitioner for a presumption that the stage carriage was in operation as on 01.04.2002 so as to term the petitioner as a saved operator.

4. Petitioner though held a stage carriage permit, nevertheless did not operate the service so as to cater to the travelling public as on 01.04.2002. If stage

carriage permit holders were entitled to be termed as saved operators then there was no necessity to impose the condition that the service should be in operation as on 01.04.2002 to be termed a saved operator under the modified Bellary scheme. In view of the specific condition in the Bellary Modified Scheme that the services must be in operation as on 01.04.2002, in addition to being a holder of a permit, so as to claim to be a saved operator, and there being no relation in the said condition, more so by paying a penalty, the KSTAT and the original authority were justified in rejecting petitioner's claim.

5. The aforesaid reasons are not found in the order of the Division Bench and therefore that judgment, in my considered opinion, with great respect has no application to the facts and circumstances of this case.

6. Petition devoid of merit, is rejected.