
(1966) 04 AHC CK 0019
In the Allahabad High Court
Case No : Writ Petition No. 320 of 1964

Bhan Singh	Vs	APPELLANT
Regional Transport Authority and Others		RESPONDENT

Date of Decision : 11-04-1966

Acts Referred:

Motor Vehicles Act, 1939 — Section 57(8), 64

Citation : AIR 1967 All 163

Hon'ble Judges : V. Bhargava, C.J; L. Prasad, J

Bench : Division Bench

Advocate : A.J. Fanthome, for the Appellant; Mohd. Hussain, for the Respondent

Final Decision : Allowed

Judgement

Bhargava, C.J.—The question referred for our opinion by the learned single Judge is:

"Whether an order passed by the Regional Transport Authority on an application under Sub-section (8) of Section 57 of the Motor Vehicles Act, 1939 is appealable to the prescribed authority u/s 64 of the Act?"

2. We have heard learned counsel for the parties and have also gone through the judgment of Hon"ble R. S. Pathak, J. which has occasioned this reference in this case. Before us as well as before Hon"ble R. S. Pathak, J. the suggestion made was limited to Clauses (a) and (b) of Section 64 of the Motor Vehicles Act so that we are not concerned with the other clauses of section 64.

3. It appears to us that so far as Clause (b) of Section 04 is concernedp1 it specifically provides for appeals against orders made u/s 57 (8). Section 57 (8) deals with an application to vary the conditions of any permit by the inclusion of a new route or routes or a new area or, in the case of a stage carriage permit, by increasing the number of services above the specified maximum, or in the case of a contract carriage permit or a public carrier's permit, by increasing the number of vehicles covered by the permit. When such an application is dealt with

the Regional Transport Authority can only make two kinds of orders; one can be an order varying the conditions and the other would be an order refusing to vary the conditions.

If an order is made varying the conditions, it is very clear that an appeal would lie u/s 64 (b) which specifically grants a right of appeal to a person aggrieved by a variation of the conditions of a permit. On the other hand, if an order does not vary any of the conditions of the permit, Clause (b) of Section 64 would not apply and no appeal under that provision would lie. It will, of course, be a question of interpretation in each individual case whether a particular order, which is sought to be taken up in appeal, does or does not vary any condition of a permit.

4. As regards Clause (a) of Section 64, we are of the opinion that its provisions cannot apply to an order made on an application u/s 57 (8). An application u/s 57 (8) is limited to the purpose of applying for variation of the conditions of a permit. The reference in Section 64 (a) is to a condition attached to a permit granted to a person. Clearly u/s 57 (8) conditions are not attached to a permit. They are attached at an earlier stage when the permit is issued or granted.

Under Section 57 (8), the applications are, limited to seeking orders for variation of conditions of a permit and the specific provision for appeal, when there is a variation of conditions of a permit under Clause (b) of Section 64, precludes the interpretation that any such variation can be treated as a condition attached to a permit for the purpose of Clause (a) of section 64. We are also in agreement with Hon'ble R. S. Pathak, J. that an application for varying the conditions of a permit u/s 57 (8) cannot be deemed to be an application for the grant of a permit. All that that provision of law lays down is that, the application be treated as an application for grant of a new permit which means that in dealing with that application the Regional Transport Authority is to deal with it in the same manner and according to the same procedure which would be applicable to an application for grant of a new permit. The language does not convert an application for varying conditions of a permit into an application for grant of a new permit.

In fact, if there had been any intention to convert by a fiction of law an application to vary the conditions of a permit into an application for grant of a new permit, then this could have been very easily indicated by using slightly different language and saying that an application to vary the conditions of a permit shall be deemed to be an application for the grant of a new permit instead of merely saying that it shall be treated as an application for the grant of a new permit. Clause (a) of Section 64 cannot, therefore, apply to any order made u/s 57 (8) The right of appeal against an order made on an application u/s 57 (8) is governed by Clause (b) of Section 64 and that right is as we have indicated above.

5. Let the record be returned to the learned single judge with this opinion.