
(1958) 06 GAU CK 0005
In the Gauhati High Court
Case No : Civil Rule No. 69 of 1958

Birendra Kumar Das

APPELLANT

Vs

The State Transport Authority and Others

RESPONDENT

Date of Decision : 05-06-1958

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1939 — Section 53

Citation : AIR 1959 Guw 106

Hon'ble Judges : Sarjoo Prosad, C.J;G. Mehrotra, J

Bench : Division Bench

Advocate : H. Goswami and B.M. Goswami, for the Appellant; R.K. Goswami, G.A. (Jr.), for the Respondent

Final Decision : Allowed

Judgement

G. Mehrotra, J.—The petitioner is the owner of Vehicle No. ASD. 1202 and was granted a temporary private carrier's permit on 18-6-56. The number of his permit is P. tern. 47/56. According to the terms of the permit, it was to expire on 15-5-57. The petitioner, however, could not apply for renewal of his temporary permit in time as he alleges that his mother was very seriously ill. HE later on applied for renewal of his permit on 21-8-57 and also prayed for the grant of a fresh permit if renewal was not permissible.

The Secretary to the Regional Transport Authority who is Opposite Party No. 4 in the petition, informed the petitioner by his letter No. 3255/RTA, dated 6-11-57, that he had not been found suitable by the Board, and thus his application for grant of a private carrier's permit was rejected. The petitioner then went up in appeal before the State Transport Authority against that order and, by its order dated 25-4-58, the appeal was rejected.

The present petition on which the Rule has been Issued was filed under Art. 226 of the Constitution for a writ of certiorari quashing the orders passed by the Regional Transport Authority as well as the State Transport Authority; and further

for a writ of mandamus directing the opposite party not to give effect to the orders passed by the Regional Transport Authority and the State Transport Authority.

The contention of the petitioner is that the application was made u/s 57 of the Motor Vehicles Act for grant of a private carrier's permit; and u/s 53, the Regional Transport Authority, in deciding whether to grant or refuse a private carrier's permit, had to give regard to the condition of the roads to be used by the vehicle or vehicles in respect of which the application was made, and had to satisfy itself that the vehicle or vehicles for which the permit was required, would not be used except in connection with the business of the applicant.

The considerations, therefore, that the Regional Transport Authority had to take into account, when refusing or granting a private carrier's permit, are enumerated in Section 53 of the Act. The Regional Transport Authority has no jurisdiction to reject a permit on grounds which do not fall within the ambit of Section 53 of the Act.

In the case of *Moti Lal and Others Vs. The Government of the State of Uttar Pradesh and Others*, it was held by a Full Bench of the Allahabad High Court that a Regional Transport Authority is a quasi-judicial body, and application for permits must be considered on merits. The Authority must bring to bear independent and impartial mind and act in accordance with Sections 47 and 48 of the Motor Vehicles Act. What matters are to be considered are given in the Act and Rules .

Reasons not valid thereunder cannot be considered. In that case, the question was whether a stage carriage permit was validly refused, and the considerations which were necessary under those circumstances are enumerated in Section 47 of the Act; but the principle is the same because the language of Section 53 is similar to that of Section 47.

In our opinion, therefore, the fact that the Regional Transport Authority did not consider the petitioner fit, is no ground for refusing the grant of a private carrier's permit to him; and the application was rejected on considerations which are extraneous to the provisions of Section 53 of the Act. In this view of the matter, the petitioner is entitled to the relief of certiorari quashing the two orders in question. It should also be pointed out that we see no justification for granting a temporary permit to the petitioner when he has applied for a permanent permit. But, for the purposes of the present petition, it is not necessary for us to go into that question.

2. The Appellate Authority has observed as follows :

"The Secretary, R. T. A., indicated that the appellant continued to ply his vehicle even after the expiry of his permit and in fact some cases have been filed against him in this regard. The explanation submitted by the appellant for late renewal was duly considered in connection with new permits, but the R. T. A. considered

him unsuitable for the grant of fresh permit."

It, therefore, appears that an additional ground on which the petitioner's application was rejected by the State Transport Authority, was that the petitioner had been prosecuted for plying his vehicle even after the expiry of his permit without a fresh permit. The prosecution, as it appears from the facts aliened in the affidavit, was started after the petitioner had applied for the grant of a fresh permit. Therefore, that could not have been a consideration before the Regional Transport Authority and consequently the State Transport Authority could not take that as a ground for rejecting the application for grant of a permit to the petitioner.

3. In the result, therefore, we allow the petition; quash the orders of the Regional Transport Authority and the State Transport Authority rejecting the application for grant of a permit, and direct the Regional Transport Authority to consider the case of the petitioner according to law. It should also be kept in mind that it is not a valid ground u/s 53 of the Motor Vehicles Act, that the petitioner is not found suitable for the grant of a permit.

4. The appellate costs are to be assessed at Rs. 50/-.

Sarjoo Prosad, C.J.

5. I agree.