

(1988) 09 KAR CK 0018
In the Karnataka High Court
Case No : Writ Petition No. 9906 of 1988

B.K. Ramesh Rao

APPELLANT

Vs

Secretary, Regional Transport Authority

RESPONDENT

Date of Decision : 21-09-1988

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1939 — Section 47 (1) (f), 64 (1) (f)

Citation : (1989) ILR (Kar) 1680

Hon'ble Judges : Balakrishna, J

Bench : Single Bench

Advocate : P.R. Srirangaiah, for the Appellant; S.V. Krishnaswamy, for R-3, C.S. Shanthamallappa, for R-4 and 6 and M. Rangaswamy, for R-5, for the Respondent

Judgement

Balakrishna, J.—This Writ Petition coming on for Preliminary hearing after notice to respondents, is taken up for final hearing by consent of learned Counsel for both the parties and disposed of by this order.

2. The petitioner has described himself as a Member of the Mandal Panchayath of Belavinakoduge, Koppa Taluk, Chikkamagalur District in the cause-title. However, in the memorandum of the Writ Petition there is no exact description as to the status of the petitioner in relation to the said Mandal Panchayath. At the time of argument, it was contended by the learned Counsel for the petitioner that he is representing a local authority which is a Mandal Panchayath of Belavinakoduge of Koppa Taluk, Chikkamagalur District.

3. The grievance of the petitioner is that the 3rd respondent is operating a stage carriage service on the route Sringeri to Sagar. Previously the said service was being operated as a shuttle service between Ripponpet and Sagar. But, after an order passed by the 2nd respondent on 18-4-1987 imposing a condition to operate the service as a non-stop service between Ripponpet and Sagar, the 3rd respondent started operating the service accordingly. According to the petitioner, the traveling public between these two places are deprived of the travelling

facilities either to go to Sringeri or to Sagar, and, therefore, the petitioner addressed a letter to the 1st respondent to grant halts in between Ripponpet and Sagar to the Service of 3rd respondent. The 1st respondent rejected the same. Petitioner, being aggrieved, preferred an appeal before the 2nd respondent in Appeal No. 107 of 1988. Though it is mentioned in the Writ Petition as an appeal, learned Counsel for the petitioner corrected it and submitted that it was only a revision petition and not an appeal. The 2nd respondent, by his order dated 30-1-1988 dismissed the appeal as not maintainable with an observation that, if the petitioner is aggrieved by the same, he can approach this Court for modification.

4. The petitioner filed Writ Petition No. 2424 of 1988 against the order of the 2nd respondent in Appeal No. 107 of 1988 and the same was dismissed as withdrawn by this Court by order dated 15-2-1988 with liberty to the petitioner to challenge the earlier order passed by the 2nd respondent dated 18-4-1987, vide Annexure - A. Accordingly, the petitioner has filed this petition against the order dated 18-4-1987 of the 2nd respondent imposing a condition that the 3rd respondent has to operate the service as a non-stop service between Ripponpet and Sagar.

5. At this stage a preliminary objection was raised by the learned Counsel for respondent-5 that the Writ Petition is not maintainable since the petitioner has no locus standi. In the circumstances, the question that arises for consideration is whether the petitioner has no locus standi to sue?

6. Section 47(1)(f) of the Motor Vehicles Act, 1939, which is relevant for the purpose of this case, reads thus:

"47. PROCEDURE OF REGIONAL TRANSPORT AUTHORITY IN CONSIDERING APPLICATION FOR STAGE CARRIAGE PERMIT.

(i) A Regional Transport Authority shall, in considering an application for stage carriage permit, have regard to the following matters, namely:-

(a) to (e) xxx xxx xxx

(f) The condition of the roads included in the proposed route or area; and shall also take into consideration any representations made by persons already providing passenger transport facilities by any means along or near the proposed route or area, or by any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government, or by any local authority or police authority within whose jurisdiction any part of the proposed route or area lies."

7. A reading of the above provision would make it crystal clear that the following persons could make representations and the Competent Authority should take into consideration any such representations, besides the factors mentioned in Section 47(1)(a) to (f) of the Act. Such persons are: (1) persons already providing passenger transport facilities by any means along or near the proposed route or area; (2) by any association representing persons interested in" the

provision of the road transport facilities recognised in this behalf by the State Government; and (3) by any local authority or police authority within whose jurisdiction any part of the proposed route or area lies.

8. In my opinion, the petitioner, who is a Member of the Mandal Panchayath of Belavinakoduge, Koppa Taluk, Chikkamagalur District, does not belong to any one of the above categories. If at all it was possible it can only be by an association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government or by any local authority within whose jurisdiction any part of the proposed route or area lies. It cannot be said that the petitioner is, by any means, a local authority just because he is a Member of the Mandal Panchayath. It cannot also be said that the petitioner is an association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government.

9. It is difficult to accept the submission of the learned Counsel for the petitioner that the petitioner, being a Member of a Mandal Panchayath, should be regarded as representing a local authority. The Mandal Panchayath is a body of persons specifically constituted under the relevant Act and the petitioner happens to be a Member of the same. Even assuming that he enjoys the status of a Member of the Mandal Panchayath, if at all the Mandal Panchayath was interested in making representations or in approaching this Court under Article 226 of the Constitution, it would only be by a person authorised to sue on behalf of the Mandal Panchayath under the relevant Act and not by every or any Member of the Mandal Panchayath. As already observed the petitioner does not fit into the category of any association since the word "association" connotes the meaning of "a body consisting of several persons" and it assumes a collective character and not of an individual nature to be regarded as representing a collective body.

10. According to Section 64(1)(a) of the Act any person aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him; or (f) being a local authority or police, authority or an association which, or a person providing transport facilities who, having opposed the grant of a permit is aggrieved by the grant thereof or by any condition attached thereto, has a right of appeal to the State Transport Appellate Tribunal. Sub-clause (f) envisages that the following persons are invested with the right of appeal: (1) a local authority; (2) a police authority; (3) an association; and (4) or a person providing transport facilities, provided he has opposed the grant of a permit and is aggrieved by the grant thereof or by any condition attached thereto. Once again it is patent that the petitioner does not fit into any one of the classifications. I have already inferred that the petitioner cannot be regarded as a local authority or an association. Admittedly, the petitioner is not a person providing transport facilities at all. In these circumstances, the petitioner could not have the privilege of preferring an appeal against the impugned order.

11. A right to sue in regard to the conditions imposed in a permit granted after

due consideration u/s 47(1) of the Act can be challenged only by persons referred to within the statutory provision itself. In other words, I have to be guided only by the intention of the legislature which is manifested in the relevant statutory provisions, they being, Sections 47(1)(f) and 64(1)(f) of the Act. It is only these persons who could have a cause of action as well as a right to sue. In order to invoke extraordinary jurisdiction of this Court under Article 226 of the Constitution, the petitioner should satisfy the Court that he has necessary locus standi to sue.

12. In my opinion and for the reasons stated above, it is not possible to accept the contention of the petitioner that this Writ Petition is maintainable and I hold that the petitioner, as a Member of the Mandal Panchayath, has no right to sue. I do not think that it is necessary to go into other contentions raised in the Writ Petition since the petition itself is not maintainable in law.