
(2006) 01 P&H CK 0160
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6023 of 2003

Buwani Khera Co-op. Transport Society Limited	APPELLANT
Vs	
State Transport Authority	RESPONDENT

Date of Decision : 03-01-2006

Acts Referred:

Motor Vehicles Act, 1988 — Section 43, 66, 66(1), 66(3), 70

Citation : (2006) 143 PLR 542 : (2006) 2 RCR(Civil) 182

Hon'ble Judges : S.N. Aggarwal, J;J.S. Khehar, J

Bench : Division Bench

Advocate : Baldev Kapoor, for the Appellant; Harish Rathi, D.A.G., for the Respondent

Final Decision : Dismissed

Judgement

S.N. Aggarwal, J.—The petitioner is a Cooperative Transport Society operating in District Bhiwani. It has a valid regular stage carriage permit authorizing it to ply between Tosham to Badhra.

2. The grievance of the petitioner-society is that the fleet of buses under the operation and control of the Haryana Roadways, Bhiwani, which had another route Tosham to Satnali, as well as the route assigned to the petitioner i.e. Tosham to Badhra, is illegally operating nine return trips a day. The grievance of the petitioner emerges from the fact that the routes on which the buses of the Haryana Roadways Bhiwani ply overlap with the route assigned to the petitioner. This according to the petitioner causes substantial revenue losses to the petitioner.

3. According to the learned Counsel for the petitioner, the illegality of the action of the Haryana Roadways, Bhiwani, in plying nine return trips daily on the routes referred to above, emerges from the route permit originally granted to respondent No. 3 by the Regional Transport Authority Annexure R-8, which was valid till 10.1.2004. During the pendency of the instant writ petition, another

route permit was issued in favour of respondent No. 2, for the period from 1.5.2003 to 30.4.2008 (Annexure R-9). Referring to the aforesaid route permits, learned Counsel for the petitioner vehemently contends, that respondent No. 3 has been issued one permit vide (Annexure R-8), and one permit vide Annexure R-9, and as such, it was open to respondent No. 3 to operate one return trip on each of the aforesaid two permits, and that, the operation of nine return trips on the permits referred to above was wholly unauthorized in law. In order to advance his aforesaid contention, learned Counsel for the petitioner has placed reliance on Sections 66, 70 and 72(2)(iii) of the Motor Vehicles Act, 1988 (hereinafter referred to as an "Act")- The provisions relied upon are being extracted hereunder:

66. Necessity for permits.- (1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used:

Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorize the use of the vehicle as a contract carriage:

Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorize the use of the vehicle as a goods carriage either when carrying passengers or not:

Provided also that a goods carriage permit shall, subject to any conditions that may be specified in the permit, authorize the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him.

(2) The holder of a goods carriage permit may use the vehicle, for the drawing of any trailer or semi-trailer not owned by him, subject to such conditions as may be prescribed:

[Provided that the holder of a permit of any articulated vehicle may use the prime-mover of that articulated vehicle for any other semi-trailer.]

(3) The provisions of Sub-section (1) shall not apply -

(a) to any transport vehicle owned by the Central Government or a State Government and use for Government purposes unconnected with any commercial enterprise;

(b) to any transport vehicle owned by a local authority or by a person acting under contract with a local authority and used solely for road cleansing, road watering or conservancy purposes"

(c) to any transport vehicle used solely for police, fire brigade or ambulance purposes;

(d) to any transport vehicle used solely for the conveyance of corpses and the mourners accompanying the corpses;

(e) to any transport vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety;

(f) to any transport vehicle used for any other public purpose as may be prescribed by the State Government in this behalf;

(g) to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(h) * * *

(i) to any goods vehicle, the gross vehicle weight of which does not exceed 3,000 kilograms;

(j) subject to such conditions as the Central Government may, by notification in the Official Gazette, specify, to any transport vehicle purchased in one State and proceeding to a place, situated in that State or in any other State, without carrying any passenger or goods;

(k) to any transport vehicle which has been temporarily registered u/s 43 while proceeding empty to any place for the purpose of registration of the vehicle;

(l) * * *

(m) to any transport vehicle which, owing to flood, earthquake or any other natural calamity, obstruction on road, or unforeseen circumstances is required to be diverted through any other route, whether within or outside the State, with a view to enabling it to reach its destination;

(n) to any transport vehicle used for such purposes as the Central or State Government may, by order, specify;

(o) to any transport vehicle which is subject to a hire-purchase, lease or hypothecation agreement and which owing to the default of the owner has been taken possession of by or on behalf of, the person with whom the owner has entered into such agreement, to enable such motor vehicle to reach its destination; or

(p) to any transport vehicle while proceeding empty to any place for purpose of repair.

(4) Subject to the provisions of Sub-section (3), Sub-section (1) shall, if the State Government by rule made u/s 96 so prescribes, apply to any motor vehicle adapted to carry more than nine persons excluding the driver.

70. Application for stage carriage permit.- (1) An application for a permit in

respect of a stage carriage (in this Chapter referred to as a stage carriage permit) or as a reserve stage carriage shall, as far as may be, contain the following particulars, namely:

- (a) the route or routes or the area or areas to which the application relates;
- (b) the type and seating capacity of each such vehicle;
- (c) the minimum and maximum number of daily trips proposed to be provided and the time-table of the normal trips;
- (d) the number of vehicles intended to be kept in reserve to maintain the service and to provide for special occasions;
- (e) the arrangements intended to be made for the housing, maintenance and repair of the vehicles, for the comfort and convenience of passengers and for the storage and safe custody of luggage;
- (f) such other matters as may be prescribed.

(2) An application referred to in Sub-section (1) shall be accompanied by such documents as may be prescribed.

72. Grant of stage carriage permits.- (1) Subject to the provisions of Section 71, Regional Transport Authority may, on an application made to it u/s 70, grant a stage carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit:

Provided that no such permit shall be granted in respect of any route or area not specified in the application.

(2) The Regional Transport Authority, if it decides to grant a stage carriage permit, may grant the permit for a stage carriage of a specified description and may, subject to any rules that may be made under this Act, attach to the permit anyone or more of the following conditions, namely;

(iii) the minimum number of daily trips to be provided in relation to any route or area generally or on specified days and occasions.

4. With the assistance of the learned Counsel for the petitioner, we have read and reread the provisions relied upon. We are, however, unable to arrive at a conclusion that there is any mandate requiring the Regional Transport Authority to expressly incorporate the number of trips/return trips for which a permit is being issued. As a matter of fact, the perusal of Annexures R-8 and R-9 i.e. the permits issued by the Regional Transport Authority in favour of respondent No. 3 depicts that the said permits had been issued for the entire fleet of buses of the Haryana Roadways, Bhiwani. Since neither of the aforesaid permits are limited to any express vehicles, nor to the number of half trips/return trips, it is, therefore, apparent that while issuing the permit to the General Manager, Haryana Roadways, Bhiwani, the Regional Transport Authority did not wish to restrict the permit either to a particular bus or to a particular number of trips. It is obvious

that the said permits can be used for the entire fleet of buses of Respondent No. 3 and for unlimited number of trips. Since, we have already concluded hereinabove that there is no mandate under the statutory provisions of the Act, requiring the nominated Regional Transport Authority to expressly incorporate the number of trips in the permit being issued by it, we are satisfied that no illegality/infirmity is being committed by respondent No. 3 by operating nine return trips on the routes assigned to it.

5. For the reasons recorded above, we find no merit in this petition and the same is, accordingly, dismissed.