(1999) 01 KAR CK 0053

In the Karnataka High Court

Case No : Writ Petition No. 12567 of 1993

C. Jayaram APPELLANT

Vs

Regional Transport Officer and The Registering Authority, Mandya Region, Mandya RESPONDENT

Date of Decision : 06-01-1999

Acts Referred:

Karnataka Motor Vehicles Rules, 1989 — Rule 151, 216 (2)

Citation : AIR 1999 Kar 282 : (1999) ILR (Kar) 2586 : (1999) 2 KarLJ 672

Hon'ble Judges : V.K. Singhal, J

Bench : Single Bench

Advocate : Sri M.R.V. Achar, for the Appellant; Smt. S. Sujatha, High Court Government Pleader, for the Respondent

Judgement

1. Petitioner is aggrieved by the endorsement directing to enhance the seating capacity of the vehicle from 41+2 to 48+2. The vehicle is operated on stage carriage permit. At the time when the vehicle was purchased it was registered as Omni Passenger Motor Vehicle with a seating capacity of 41+2 in the State of Tamil Nadu. The vehicle was converted into omnibus from a stage carriage. Application under Form 29 was submitted. The petitioner was required to deposit Rs. 5,470/- and Rs. 935/- which were deposited on 1-3-1993. It is submitted that in view of the judgment given by this Court in Sanjeevaiah Vs. Regional Transport Officer, , the Regional Transport Officer has no power to give direction to alter the vehicle to provide larger seating capacity.

2. Reliance is placed on the judgment given in the case of Zia-ur-Rahaman Vs. Regional Transport Officer, . This decision is on the basis of the judgment given in the case of Sanjeevaiah, supra.

Reliance is also placed on the decision given in W.P. No. 36968 of 1994, DD: 15-1-1995 which has also taken into consideration the judgment in the case of Sanjeevaiah, supra, and endorsement directing for enhancement of seating capacity for compliance of Rule 151 of the Karnataka Motor Vehicles Rules, 1989 were quashed.

3. Learned Counsel for the respondent has relied on the judgment given by the Division Bench in the case of W.A. No. 1878 of 1987, DD: 6-8-1990 in which the judgment given in Sanjeevaiah''s case, supra and endorsement directing for enhancement of seating capacity was referred and it was observed that provisions of Rule 216(2) of the Rules have to be complied with and the vehicle in question does not conform to that and as such no interference could be made.

4. Rule 216(2) is now similar as Rule 151(2). The said rule reads as under:

"(2) The minimum seating capacity of a vehicle shall be directly proportionate to the wheelbase of the vehicle. In public service vehicles other than goods carriage and motor-cabs the minimum number of seats including two seats for driver and conductor or attender to be provided shall be as specified in column (2) of the Table below.-

5. Rule 151(2) required that minimum seating capacity of the vehicle shall be directly proportionate to the wheelbase of the vehicle. Calculation of seating capacity on the basis of the wheelbase has been given in the Table. The present vehicle was registered in the State of Tamil Nadu earlier and it was brought into the State of Karnataka. It has to comply with the provisions of Karnataka Motor Vehicles Taxation Act and the Rules made thereunder. The observations made in Sanjeevaiah''s case, supra, that the authority will not give direction to alter the vehicle or provide the larger seating capacity has to be read in the context in which the judgment was given. The vehicle in that case was registered in the State of Karnataka and it was held that the Regional Transport Officer has no power to demand additional tax on the basis of the subsequent order as he has no power to rectify the earlier order and there is no power under the Act which empowers any authority to direct the owner of the vehicle who has constructed or altered the body of the motor vehicle in accordance with the permission accorded by the authorities to dismantle the body of that vehicle to be constructed in a different way.

6. In the present matter, the vehicle was not registered in the State of Karnataka but it was brought from the State of Tamil Nadu. Once it has been brought into the State of Karnataka, it has to comply with the Karnataka Motor Vehicles Taxation Rules. The latter decision of the Division Bench in W.A. No. 1878 of 1987, DD: 6-8-1990 has also taken into consideration the judgment in Sanjeevaiah''s case, supra. The judgment relied by the learned Counsel of Single Bench have not taken into consideration the decision of the Division Bench. It may also be observed that validity of Rule 216 was upheld by the Apex Court in the case of State of Mysore and Another Vs. K.G. Jagannath, and as such the endorsement issued by the Regional Transport Officer cannot be said to be illegal.

Petition having no force is accordingly dismissed.

