
(1965) 11 MP CK 0014

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 365 of 1965

Capital Multipurpose Co-operative Society Ltd.

APPELLANT

Vs

Madhya Pradesh State Road Transport Co-operative and
Others

RESPONDENT

Date of Decision : 06-11-1965

Acts Referred:

Motor Vehicles Act, 1939 — Section 64

Citation : AIR 1967 MP 151 : (1968) ILR (MP) 681 : (1966) 11 MPLJ 88

Hon'ble Judges : P.V. Dixit, C.J;R.J. Bhavé, J

Bench : Division Bench

Advocate : Y.S. Dharmadhikari, for the Appellant; V.S. Dabir, for the Respondent

Final Decision : Dismissed

Judgement

Bhavé, J.

In this petition under Article 226 of the Constitution the applicant seeks a writ of certiorari for quashing the order of the State Transport Appellate Authority, Gwalior (respondent No. 2), dated 13 August 1965, by which the order of the R. T. A., Bhopal (respondent No. 3), dated 8 July 1963, renewing the permit in favour of the petitioner, has been set aside and the case has been remanded to it for disposal according to law.

The petitioner-Society as the transferee of a permit for five return trips daily on the Bhopal-Piplani route applied for a renewal of the permit. Respondent No. 1, the State of Madhya Pradesh State Road Transport Corporation, objected to the renewal of the permit and also made an application for the grant of a permit to itself. When the matter came up for consideration before the R. T. A., the Corporation questioned the validity of the transfer of the permit to the petitioner by the original holder, Natwar Transport Company (Private) Ltd., Bhopal, and also raised an objection as regards the competency of the petitioner to apply for renewal. The R. T. A. postponed, consideration of this objection to its next

meeting. At the adjourned meeting, the R. T. A., after overruling the Corporation's objection, straightway passed an order renewing the petitioner's permit and rejecting the Corporation's application for the grant of a permit to itself without any examination of the merits of the claims made by the parties. The Corporation then preferred an appeal before the State Transport Appellate Authority, which was allowed; and that Authority remitted the matter to the R. T. A. for a fresh decision according to law.

Shri Dharmadhikari, learned counsel for the petitioner, relying on the decisions in *Samrathlal v. Phoolchand*, MP No. 71 of 1962, dated 20-7-1962: 1963 MPLJ (NC) No. 7 and *Nav Bharat Transport Co-operative Society Ltd., Bhopal v. S. P Mitra*. M. P. No. 208 of 1968 DA 31-8-1963: 1963 MPLJ (NO No. 251, urged that respondent No. 2 was in error in remanding the case and that it was the duty of the Appellate Authority to consider the material on record and to arrive at its own conclusions and that the order of remand was wholly unjustified.

This application must be rejected. The R. T. A. gave no reasons whatsoever for renewing the petitioner's permit and for rejecting the Corporation's application for the grant of a permit to itself. There is even no indication in the order passed by the R. T. A. as to whether there was any material before it on the basis of which it could consider the renewal application of the applicant and the Corporation's application for a permit to itself. The R. T. A. was required to consider the two applications together, and this meant that the authority should have evaluated the claims of the parties and then determined whether the petitioner's permit should be renewed or whether the renewal should be refused and a permit granted to the Corporation. The R. T. A.'s order does not reveal whether it fixed its mind on the applications and carefully examined the claims put forward by the parties in these circumstances, the Appellate Authority was right in setting aside the order of the R. T. A. and directing it to decide the applications afresh according to law.

The decisions relied on by learned counsel do not lay down an inviolable rule that in no case should the Appellate Authority remand a case to the R. T. A. and should itself consider the material on record and come to its own conclusion. Such a rule, if rigidly followed, would only lend to encourage the R. T. A., which must in the first instance determine the comparative merits of the parties and then form its conclusion, to shirk the duty imposed on it. The Appellate Authority would no doubt, not be justified in remanding a case to the R. T. A. if the R. T. A. has considered the material on record and if that material is sufficient to enable the Appellate Authority to form its own conclusion. But if in a case such as the present one the R. T. A. has totally failed to determine the competing claims of the parties on a consideration of the material on record and even failed to refer in its order to the material placed before it, then the Appellate Authority would be fully justified in remitting the matter to the R. T. A. for a fresh decision.

It was also urged by the petitioner that the Depot Manager of respondent No. 1 had no authority to sign the application objecting to the renewal and also asking

for a fresh permit. A similar objection was raised and negated in Thawani Bus Service v. State Transport Appellate Authority, MP No. 379 of 1965. DA 18-10-1965 (MP). The facts on the basis of which the objection has been raised in this case are no different from those which existed in Thawani Bus Service's case, MP No. 379 of 1965, D/- 18-10-1965 (MP) (supra), The contention must therefore be rejected.

On the view we have taken, no interference with the order of respondent No. 2 is called for. The petition fails and is dismissed with costs. Counsel's fee is fixed at Rs. 100. The outstanding amount of security deposit, after deduction of costs, shall be refunded to the petitioner.