
(1975) 11 AHC CK 0027

In the Allahabad High Court

Case No : Civil Misc Writ No. 10770 connected with No's. 10791 and 10769 of 1975

Chandradhan Singh and Others

APPELLANT

Vs

Regional Transport Authority, Varanasi and Others

RESPONDENT

Date of Decision : 27-11-1975

Acts Referred:

Motor Vehicles Act, 1939 — Section 48

Citation : AIR 1976 All 162

Hon'ble Judges : R.L. Gulati, J

Bench : Single Bench

Advocate : R.A. Sharma, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

R.L. Gulati, J.—In this and in the connected writ petitions a common question arises on similar facts and hence they are being disposed of by this common judgment.

2. In this writ petition there are four petitioners. The facts of the cases of petitioners Nos. 1 and 2 Chandradhan Singh and Bhagwati Prasad are identical while the facts of the cases of the remaining two petitioners Vinod Kumar Goel and Sobhnath Singh are slightly different. The petitioners Nos. 1 and 2 shall hereinafter be referred to as the petitioners first set and the petitioners Nos. 3 and 4 shall be referred to as the petitioners second set.

3. Dealing with the cases of the petitioners first set, it appears that the Regional Transport Authority (hereinafter referred to as the R. T. A.) in its meeting held on 17/21 September, 1973 decided to grant mini-bus (contract carriage) permits for Varanasi Region. It decided to grant 10 permits for Varanasi district and 5 contract carriage permits for each of the four districts, viz. Mirza-pur, Ghazipur, Ballia and Jaunpur. In its meeting held on 23rd April, 1975 the R. T. A. granted

permits to certain applicants who had already minibuses in their possession. As such applicants were not sufficient in number, the full quota of the permits was not exhausted. After that meeting the petitioners applied for the grant of temporary mini bus (contract carriage) permits on 17th June and 28th June, 1975. They in their applications mentioned the chassis number, the engine number and the model of the mini-buses, which they had arranged to purchase. Two temporary permits were granted to them for Varanasi Region from Ghazipur Centre of operation. Later on 9th July, 1975 the petitioners were asked to produce valid documents of vehicles registration in their names so that the necessary permits should be issued to them. Before, however, the documents could be produced the R. T. A. in its meeting held on 6th August, 1975 considered the policy regarding the issue of contract carriage permits for mini-buses and resolved that no further permits should be granted to any one. The petitioners thereafter submitted the documents in respect of the vehicles registered in their names but because of the resolution passed by the R. T. A. on 6th August, 1975 the permits were not issued to them. The petitioners are aggrieved and have prayed for a writ of mandamus commanding the respondents to issue necessary permits to them. They have also prayed for a writ of certiorari quashing the resolution passed by the R. T. A. on 6th August, 1975.

4. Now it is not disputed that temporary permits had been granted to the petitioners. This is clear from the letter of the R. T. A. dated 9th July, 1975 issued to the petitioner No. 1 Chandra Dhan Singh, which is in the following words:--

"Please refer to your application dated 13-6-1975 in connection with issue of temporary mini-bus permit for 4 months. In this connection you are hereby informed that a temporary permit for 4 months has been sanctioned to you as such you are hereby directed to produce the documents of the vehicle duly registered in your name so that permit be issued accordingly." What remained was only the formal issuance of a permit and that could be done only on the production by the petitioners of the relevant documents with regard to the mini-bus vehicles duly registered in their names. No time limit was fixed for the production of the documents. The petitioners have stated that in pursuance of the sanction of permits in their favour they have purchased mini-buses from TATA Mercedes Benz costing them over a lac of rupees each including the bus bodies constructed on the chassis. It has been further stated by them that on or about August 25, 1975 the petitioners approached the Secretary, R. T. A. for the issue of temporary permits to them but the Secretary gave an evasive reply and kept on postponing the issue, without issuing the permits or giving a reply in writing. These averments have not been denied. What is stated in the counter-affidavit is that because of the resolution passed by the R. T. A. placing a ban on the issue of permits, no permits could be issued to them. In my opinion, the stand taken by the respondents is highly unreasonable and illegal. The permits had already been sanctioned in favour of the petitioners and what was left was only the ministerial act of issuing the permits. Therefore, the case of the petitioners would not be covered by the policy resolution passed by the R. T. A.

on 6th August, 1975, banning the grant of further permits. So far as the petitioners are concerned, the permits had already been granted to them and the order granting permit had not been cancelled. Indeed, an order cancelling the permits could not be passed because that would amount to review of the order, which power the R. T. A. did not possess. It is well settled that the R. T. A. in the matter of grant of permits exercises judicial powers and a judicial order once passed cannot be reviewed unless there is specific power in that behalf. The ban imposed by the R. T. A. was on the grant of permits and not on the issue of permits already granted. The Supreme Court in *Kundur Rudrappa Vs. The Mysore Revenue Appellate Tribunal and Others*, has observed in paragraph 5 :--

"Issuance of the permit is only a ministerial act necessarily following the grant of the permit." The R. T. A. having already granted the permit could not withhold the issuance of permit because of the policy resolution of 6th August, 1975.

5. So far as the question of the policy resolution of 6th August, 1975 is concerned, it is very doubtful if the policy resolution of the type passed by the R. T. A. could be validly passed by it. The R. T. A. while dealing with the applications for grant of permits acts as a quasi-judicial authority. It has to deal with each application according to its own merits as and when it is made. The R. T. A. cannot say that it will not entertain any application for reason of policy decision. The policy may be decided by the Government but certainly the quasi judicial body like the R. T. A. cannot lay down as a matter of policy not to entertain any application for permit. However, I do not propose to express any final opinion on this question because the petitioners have succeeded on the ground that in spite of the policy resolution, they were entitled to permits.

5-A. That apart, the petitioners acting on the sanction order had acquired vehicles at a huge cost which could not be put to any other use except for plying on hire. The petitioners have therefore, definitely changed their position to their prejudice acting on the representation made by the respondents, namely, that a permit to each had been sanctioned and they were, therefore, estopped from saying that no permit could be issued to them because of any policy decision. In *Union of India v. Anglo Afgan Agencies* AIR 1968 SC 718 the Supreme Court has held that where a person has acted upon the representations made in an Export Promotion Scheme, that import licence upto the value of the goods exported would be issued and had imported goods, his claim for import licence for the maximum value permissible by the Scheme could not be arbitrarily rejected. This view has recently been affirmed by the Supreme Court in *Century Spinning and Manufacturing Company Ltd. and Another Vs. The Ulhasnagar Municipal Council and Another*, where it has been held in paragraph 11 :--

"Public bodies are as much bound as private individuals to carry out representations of facts and promises made by them relying on which other persons have altered their positions to their prejudice."

6. So far as the case of the petitioners second set is concerned, unlike the case

of the petitioners first set, permits were not actually sanctioned to them but in response to their applications, the following letter was sent to them on 16th May, 1975 :

"With reference to your application dated 13-5-1975 regarding issue of Mini Bus permit you are hereby informed that a Mini Bus permit can be issued if you produce the Mini Bus in our office for inspection along with the papers."

The petitioners' case is that acting on this representation they acquired one mini bus each and produced them for inspection in the office of the R. T. A. but because of the policy decision taken in the meantime permits were not granted to them. In my opinion, that is also a case of clear estoppel. They had been, as it were, assured that if they produce the mini-buses in the office of the R T. A. for inspection along with the papers, a permit will be granted to them. Acting on this representation, the petitioners have spent a huge sum of money on the purchase of mini-bus chasis and setting up bodies thereon. The R. T. A., in my opinion, was clearly estopped thereafter from going back on its representation.

7. For the reasons already indicated in the case of the petitioners first set, in my opinion, they are also entitled to permit as-much as the petitioners first set.

8. It was then argued on behalf of the respondents that the petitioners had applied for a temporary permit for a period of four months only and that period having been expired, those applications have become in-fructuous. This stand is again incorrect. The period of four months for which the permit was sought would, in my opinion, commence from the date when the permit was actually issued and not from the date of the application or the date of the grant of permit. This view finds full support from a decision of the Supreme Court in Maharashtra State Road Transport Corporation Vs. Balwant Regular Motor Service, Amravati and Others, where it has been held:--

"In the absence of any express statutory provisions it must be taken that the date of the commencement of the period of the permit would be the date from which the permit is actually issued."

9. For all these reasons the petitions succeed and are allowed. The respondents are directed to issue permits to the petitioners after satisfying themselves with regard to the roadworthiness of the vehicles and the relevant documents of registration etc. In the circumstances, however, I make no order as to the costs.