
(1963) 11 KL CK 0011

In the High Court Of Kerala

Case No : O.P. No"s. 2475 and 2493 of 1962

Commercial Transports

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 01-11-1963

Acts Referred:

Motor Vehicles Act, 1988 — Section 68D(3)

Citation : (1964) KLJ 810

Hon'ble Judges : P. Govindan Nair, J

Bench : Single Bench

Advocate : V.K.K. Menon, M. Ramchandran and C.J. Balakrishnan in O.P. 2475/62, Joseph Augustine in O.P. 2493/62, for the Appellant;

Final Decision : Dismissed

Judgement

Govindan Nair, J.—A common question as to whether the scheme as approved by the Government, a copy is marked as Ext. P.4 in each of the writ applications, which has been published u/s 68D (3) of the Motor Vehicles Act, should be struck down as there has been no compliance with Section 68D (2) of the Motor Vehicles Act, 1939, arises for consideration in these writ applications. Section 68D (2) is in these terms:

(2) The State Government may, after considering the objections and after giving an opportunity to the objector or his representatives and the representatives of the State transport undertaking to be heard in the matter, if they so desire, approve or modify the scheme.

The Chief Minister of the State, who has been empowered to do so heard the objections. The complaint of counsel appearing for the petitioners is that the scheme, as evidenced by Ext. P.4 in each of these cases, does not disclose that the Chief Minister had heard their objections, and what is more important, that he has not given any reasons for rejecting the objections raised by the petitioners.

2. The matter seems to be concluded by the observations of the Supreme Court in a decision reported in H.C. Narayanappa and Others Vs. The State of Mysore and Others, . Mr. Justice Shah said in paragraph 14 of the judgment,

The argument that the Chief Minister did not give "genuine consideration" to the objections raised by operators to the scheme in the light of the conditions prescribed has no force. The order of the Chief Minister discusses the questions of law as well as questions of fact. There is no specific reference in the order to certain objections which were raised in the reply filed by the objectors, but we are, on that account, unable to hold that the Chief Minister did not consider those objections. The guarantee conferred by S. 68D of the Motor Vehicles Act upon persons likely to be, affected" by the intended scheme is a guarantee of an opportunity to put forth their objections and to make representations to the State Government against the acceptance of the scheme. This opportunity of making representations and of being heard in support thereof may be regarded as real only if in the consideration of the objections there is a judicial approach." But the Legislature does not contemplate an appeal to this court against the order passed by the State Government approving or modifying the scheme. Provided the authority invested with the power to consider the objections gives an opportunity to the objectors to be heard in the matter and deals with the objections in the light of the object intended to be secured by the scheme, the ultimate order passed by that authority is not open to challenge either on the ground that another view may possibly have been taken on the objections or that detailed reasons have not been given for upholding or rejecting the contentions raised by the objectors.

3. This passage alone will be sufficient for dismissing these writ applications. But I must refer to the fact that there has been an order passed in these cases by the Chief Minister. He passed that order before the scheme Ext. P.4 has been published in the State Gazette and it appears to me that he has dealt with the relevant objections in that order. The extract of the order is in paragraph 11 of the counter-affidavit submitted on behalf of the State. The case is, therefore, similar to the one reported in Palakurti Venkata Rao and Others Vs. The State of Andhra Pradesh and Others, . Their Lordships dealing with a similar question in paragraph 31 of the judgment, said :

That aside, the order now filed discloses that the main points arising in the matter had received the careful attention of the Chief Minister and his opinions were formed on the material on record and attendant circumstances.

In the light of the above, I reject the main contention that has been urged by counsel in these writ applications. It was also suggested in the course of the argument, that a scheme which was meant only to supplement and not completely replace the private operators on a route or in an area is incompetent. The matter is covered by a decision in Sachindananda Paniker v Director of State Transport Department and Others (1959 K.L.J. 761) against the petitioners. I find no substance in the contentions raised in these writ

applications.

I dismiss these writ applications with costs.