

(2002) 11 KL CK 0014
In the High Court Of Kerala
Case No : W.A. No. 2645 of 2002

C.P. Mohammedali

APPELLANT

Vs

Elias Mathai

RESPONDENT

Date of Decision : 14-11-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397
Motor Vehicles Act, 1988 — Section 69, 69(1)
Penal Code, 1860 (IPC) — Section 143

Citation : (2002) 2 KLJ 907 : (2003) 1 KLT 362

Hon'ble Judges : S. Sankarasubban, J; A. Lekshmikutty, J

Bench : Division Bench

Advocate : Sajeev Kumar K. Gopal and Binoy Vasudevan, for the Appellant; P. Gopalakrishna Menon and M. Jithesh Menon, for the Respondent

Final Decision : Allowed

Judgement

Sankarasubban, J.—This Writ Appeal is filed against the judgment of a learned single Judge in O.P. No. 9605 of 2002. Appellant is the third respondent in the Original Petition. First petitioner in the Original Petition is an existing operator on the strength of a regular permit in respect of the vehicle, KL-9E, 1017 on the route Mannarkkad - Malampuzha. The second petitioner in the Original petition is an existing operator on the route Thathamangalam - Malampuzha. The appellant applied for fresh permit for operating on the route Kondotty - Palakkad via. Edavannapara, Areekod, Manjeri, Pandikkad, Melattur, Unniyal, Alanellur, Mannarkkad, Kalladikode and Olavakkode. The route Kondotty - Palakkad is an inter-district route. It covers of a distance of 121 kms. Out of the total distance of 121 kms. 63.05 kms. lie in Malappuram District and the balance 57.5 kms. lie in Palakkad District. The appellant applied for the permit in the Malappuram Regional Transport Authority. The Malappuram Regional Transport Authority took the view that in this case, the main focus of operation is in Palakkad District and rejected the application. Against that order, the present appellant preferred an appeal before the State Transport Appellate Tribunal. During the pendency of the

appeal before the State Transport Appellate Tribunal, the petitioners in the original petition got themselves impleaded. The learned State Transport Appellate Tribunal found that the view taken by the Regional Transport Authority, Malappuram is wrong and held that since major portion of the route lies in Malappuram District, the application for permit can be filed in the District. The petitioners in the Original Petition, then wanted that the timings can be settled only after hearing them. After setting aside the order, the State Transport Appellate Tribunal directed the Regional Transport Authority, Malappuram to grant permit to the appellant, after settling the timings. It is against that the Original Petition was filed. The contention taken before the learned single Judge was that the Regional Transport Authority, Malappuram has no jurisdiction regarding the settlement of timings.

2. We heard learned counsel for the appellant and the respondents and also the learned Government Pleader.

3. On a perusal of the judgment of the learned single Judge, we find that the learned single Judge went to the question of route, area, etc for finding out whether Malappuram Regional Transport Authority or the Palakkad Regional Transport Authority had jurisdiction. According to us, it is not necessary to go into those aspects. Once the Section is clear, we have to follow the plain words given in that Section.

4. Section 69(1) of the Motor Vehicles Act says that every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles, provided that if it is proposed to use the vehicle or vehicles in two or more region lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles. According to us, there is no confusion in interpreting the Section. The word "use" is stated in Section 69 not with respect to number of use that the stage carriage is being used in the particular region. The word "use" is made in the sense that the stage carriage is operating in a particular route. When the route lies only in one route, naturally, the bus will be used on that route only. But when it is used in both routes, the Section says that in that event, the application shall be filed before the Regional Transport Authority of the Region in which the major portion of the proposed route or area lies. There is no quarrel here that major portion lies in Malappuram District. Hence according to us, the judgment of the learned single Judge that the application for permit should have been made in Palakkad District is not correct. Even otherwise, according to us, the petitioners in the Original Petition have no locus standi to challenge the grant of permit to the appellant. With the amendment of the Motor Vehicles Act it has become clear now that the existing operator has no right to challenge the grant of permit except the grievance regarding timings.

Hence, we set aside the judgment of the learned single Judge and restore the order passed by the Regional Transport Authority and the Secretary, Regional Transport Authority, Malappuram shall pass necessary consequential orders; so that permit can be issued to the appellant with a period of three weeks from the date of receipt of a copy of this judgment.

Writ Appeal is allowed.