
(1967) 10 P&H CK 0011
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 2407 of 1966

Dhillon Transport Company	Vs	APPELLANT
Regional Transport Authority and others		RESPONDENT

Date of Decision : 11-10-1967

Acts Referred:

Motor Vehicles Act, 1988 — Section 64

Citation : (1967) 10 P&H CK 0011

Hon'ble Judges : R.S. Narula, J

Bench : Single Bench

Advocate : J.S. Wasu and Baldev Kapur, for the Appellant; G.R. Majitha for Respondents Nos. 1, 3 and 4 and Mr. Laxmi Grover, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Narula, J.—The petitioner-company is operating two temporary stage carriage permits on Budhlada Ratia route and one regular permit on Sardoolgarh-Ratia route. Respondent No. 2. has also been operating four temporary permits on Budhlada- Ratia route, but held no such permit before the impugned order on the Sardoolgarh-Ratia route. In the meeting of the Regional Transport Authority, Patiala, dated September 28, 1966, resolution No. 44 (Annexure "D") was passed granting two temporary permits to respondent No. 2 on the Budhlada-Sardoolgarh via Ratia route covering a track of about forty miles. Though nobody on behalf of the petitioner-company is stated to have been present on the occasion, the case of the petitioner-company is said to have been considered, but preference was given to respondent No. 2 as it was a Co-operative Transport Society. It is the said resolution passed in the meeting of the Regional Transport Authority which is sought to be impugned in this case by Shri Joginder Singh Wasu, the Learned Counsel for the petitioner-company on various grounds.

2. Mr. Laxmi Grover, the Learned Counsel for respondent No. 2 has raised three preliminary objections to the grant of any relief to the petitioner-company in this case. It is firstly contended by him that this petition under Article 226 of the

Constitution should not be entertained as the petitioner-company has come to this Court without exhausting its alternative remedy by way of an appeal against the impugned order, u/s 64 of the Motor Vehicles Act (4 of 1939) (hereinafter referred to as the Act). Mr. Wasu has, on the other hand, pointed out that no appellate authority had been constituted at the time when the writ petition was filed as the previous appellate authority ceased to exist on November 1, 1966, and none had been reconstituted thereafter till this writ petition was filed and admitted. He has also submitted that the bar to the entertainment of a writ petition on account of availability of an alternative remedy is not absolute and that the Court has discretion to entertain a petition under Article 226 of the Constitution even if an alternative remedy by way of appeal has not been exhausted. Reliance is placed by Learned Counsel on the judgment of Pandit, J, in *Capital Bus Service Private Ltd. Vs. State Transport Authority, Delhi and Another*, wherein it has been held that it is doubtful whether an appeal lies against an order granting a temporary permit u/s 64 of the Act and that even if such an appeal lies, the High Court would be justified to quash the grant of a temporary permit by a writ in the nature of Certiorari even in a case where the petitioner has not exhausted the remedy available under the Act, if the order granting a permit is found to be without jurisdiction. Mr. Wasu submits that the main ground on which he wants to attack the impugned order is that it is wholly without jurisdiction. In the circumstances of this case, I do not consider it proper to throw out this writ petition on the first preliminary objection raised by Mr. Grover.

3. It was then submitted on behalf of the contesting respondents that it does not lie in the mouth of the petitioner-company to question the grant of temporary permits to respondent No. 2, when the petitioner itself is holding temporary permits which had been granted to it in a similar manner. There is no material on the record of this case to show whether the alleged infirmities in the impugned order also existed in the orders for the grant of temporary permits to the petitioner company or not, I am, therefore, not able to entertain this objection.

4. It has been lastly contended by Mr. Laxmi Grover that the period for which the impugned permits were directed to be issued having since expired, this petition has become infructuous. In answer to a question put by me to the Learned Counsel for the petitioner-company, it has been stated that in fact respondent No. 2 did not utilise the permits directed to be issued to it by the impugned resolution, dated September 28, 1966, and that the petitioner-company is not aware of any subsequent temporary permits for the route in question having or not having been granted to the second respondent. The mere expiry of the period for which an impugned temporary permit is granted would not in my opinion render a writ petition impugning the grant of that permit infructuous. In this particular case, however, it is submitted that the impugned resolution was never implemented, and the petitioner-company is not in a position to state if any subsequent temporary permits on the route in question were ever granted to respondent No. 2 after the expiry of the period for which the impugned permits

were directed to be issued. In such a situation the questions to be raised by Mr. Wasu would merely be of academic interest and it appears to be wholly unnecessary to go into them. High Courts do not exercise jurisdiction under Article 226 of the Constitution where no effective relief whatever can be granted to a petitioner, howsoever interesting and sound the questions sought to be raised before it may be. For this reason alone, I have not heard the petition on merits and hereby proceed to dismiss the same as infractors without any order as to costs.