
(2002) 09 KL CK 0013

In the High Court Of Kerala

Case No : O.P. No"s. 9605 and 13846 of 2002

Elias Mathai and Another

APPELLANT

Vs

Regional Transport Authority and Others

RESPONDENT

Date of Decision : 03-09-2002

Acts Referred:

Motor Vehicles Act, 1988 — Section 69

Citation : AIR 2003 Ker 53

Hon'ble Judges : R. Rajendra Babu, J

Bench : Single Bench

Advocate : P. Gopalakrishna Menon and M. Jithesh Menon, for the Appellant; M.J. Rajasree, Govt. Pleader (for Nos. 1, 2 and 4) and Binoy Vasudevan, (for No. 3), for the Respondent

Judgement

R. Rajendra Babu, J.—Sri. C. P. Mohammed Ali (the third respondent in OP 9605/2002) filed an application before the first respondent, RTA, Malappuram for the grant of regular permit in respect of his stage carriage to operate on the inter-district route Kondotty-Palakkad as LSOS subject to counter-signature of the RTA, Palakkad. By the proceedings dated 9-7-2001, the RTA, Malappuram (the first respondent) rejected the above application holding that the main focus of operation of the vehicle was in between Mannarkkad and Palakkad in Palakkad District and as such the first respondent had no jurisdiction to grant the permit. The above order was challenged by Sri. C.P. Mohammed Ali before the STAT in MVAA No. 665/2001. By Exhibit P7 order dated 15-11-2001 the STAT allowed the appeal and directed the first respondent to consider the application for regular permit afresh. The petitioners who are two existing stage carriage operators, filed OP No. 9605/ 2002 before this Court for quashing Exhibit P7 order of the STAT. In pursuance to Exhibit P7 order of the STAT, regular permit was granted to Sri C. P. Mohammed Ali by the proceedings of the first respondent dated 22-3-2002. Petitioners in OP 9605/2002 challenged the above grant by filing OP No. 13846/2002 before this Court.

2. Heard the learned counsel for the petitioners, the learned counsel for Sri C. P. Mohammed AH (hereinafter referred to as "the third respondent") and the learned Government Pleader.

3. The third respondent filed an application for the grant of regular permit before the first respondent to operate his vehicle on the inter-district route Kondotty-Palakkad as LSOS. The route covers 121 kms. out of which 63.5 km. lies in Malappuram District from Kondotty to Unniyal and the balance portion of 57.5 km. from Unniyal to Palakkad lies in Palakkad District. But, as per the time schedule proposed by the third respondent, the operation of the vehicle was mainly confined to day time between Palakkad and Mannarkkad, within Palakkad District, a distance of nearly 40 km. and the early morning trip and last evening trip would touch Kondotty in Malappuram District. The first respondent had taken the view that the application should be filed before the authority within whose jurisdiction the main focus of operation was, though the route length was slightly more in Malappuram District. Sri. C. P. Mohammed Ali challenged the above, order before the STAT and the STAT took the view that the application should be filed before the authority within whose jurisdiction the route length was more. Accordingly, the STAT directed the first respondent to decide the matter afresh.

4. The main question for consideration is which of the RTAs has the jurisdiction to grant regular stage carriage permit when the route length is more in one district whereas the main operation of the vehicle, the total distance covered by the operation is more in another district. The learned counsel of the petitioners submitted that the Jurisdiction has to be decided on the basis of the use of the vehicle in the area or route. Section 69 of the Motor Vehicles Act (hereinafter referred to as "the Act") deals with the jurisdiction of the RTA or the State Transport Authority regarding the grant of permit. Section 69(1) of the Act reads :

"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 regions 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".

The learned counsel for the petitioners submitted that as per Section 69(1) of the Act every application for the grant of regular permit should be made before the RTA of the region where the vehicle was proposed to be used and as per the proviso to Section 69(1) of the Act, when the vehicle had to be used in two or more regions the application had to be filed within the jurisdiction of the RTA, where the major portion of the route or area over which the vehicle was proposed to operate. It was further submitted that the jurisdiction has to be

decided on the basis of the use of the vehicle where the vehicle is proposed to be used in more than one region. A route as defined u/s 2(38) of the Act. reads :

""Route means a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another".

The Supreme Court in *C.P.C. Motor Service, Mysore Vs. The State of Mysore and Another*, , held that a route is meant not only the national line, but also the actual route over which the vehicle run. There it was further held that the word "route" or "area" stand for the road on which the vehicle run or portions thereof. In *C.P. Sikh Regular Motor Service and Others Vs. The State of Maharashtra and Others*, the Supreme Court held that A route is an area plus something more. In *Dosa Satyanarayanamurty etc. Vs. The Andhra Pradesh State Road Transport Corporation*, the Supreme Court held that there was no inherent inconsistency between an "area" and a "route" and the route also is an area limited to the route proposed. The Supreme Court in *D. Papiiah Vs. Mysore State Transport Appellate Tribunal and Others*, while considering the word "area" in the statute held that the area is meant the route over which the vehicle ply without reference to any notional line of travel. That was a case relating to the grant of contract carriage permit. There it was further held that the word "area" meant, the area of motorable roads within the territorial jurisdiction of a RTA and not the extent or the geographical area of the region. A consideration of the above decisions would make it clear that the jurisdiction of the RTA to grant the permit has to be decided on the basis of the use of the vehicle. If the use of the vehicle is more in one region, i.e. the operation of the vehicle is more, even if the route length is more in the other District, the Jurisdiction shall be with the RTA in whose jurisdiction the use of the vehicle is more.

5. The learned counsel for the petitioners further submitted that in giving the meaning to the word "route", for deciding the Jurisdiction of the RTA, the other relevant provisions of the Act also has to be looked into. It was further argued that Section 71 of the Act also has some relevance in deciding the issue on controversy. Section 71 of the Act deals with the procedure of the RTA in considering the application for stage carriage permit. Sub-section (3) of Section 71 of the Act empowers the State Government to issue notification limiting the number of stage carriages operating in city routes or towns with a population of not less than five lakhs. It was submitted that a notification u/s 71(3) of the Act had been issued by the Government limiting the permits to be issued within the city limits of Kozhikode and Ernakulam. The above notification was issued on the basis of the road condition, the number of vehicles and all relevant factors including the safety of the public at large. It was further submitted that permits are being issued from the neighbouring RTAs by which the notification u/s 71(3) of the Act is defeated, whereby a large number of vehicles allowed to operate mainly within the city limits. In fact, certain permits were issued by the neighbouring RTAs wherein the main focus of operation of the vehicle was within the city limits, i.e. the operation would start from the neighbouring region and

after entering into the city limits, the operation would be exclusively within the city limits throughout the day and the starting trip as well as the last evening trip alone would be outside the city limits and thereby the object and the purpose of the notification u/s 71(3) of the Act was being defeated. In fact, the notification issued u/s 71(3) of the Act limiting the number of vehicles is being indirectly defeated causing danger to public safety. The permit sought for in the present case also was one wherein the main focus of operation was within the area of Palakkad District whereas the starting trip as well as the evening return trip alone were to operate within the region of the RTA, Malappuram, the authority granting the permit.

6. The learned counsel for the petitioner further submitted that the RTA, Ernakulam had already taken a decision on 26-11-1996 to request the other RTAs not to issue permits to operate the vehicles mainly within the city limits of Ernakulam. In fact, the RTA, Ernakulam had found that the object of the notification u/s 71(3) of the Act was being defeated by the issue of permits by other RTAs wherein the main focus of operation of the vehicle was within the city limits. Taking into consideration all the relevant provisions, the jurisdiction of the RTA for the grant of permit in respect of inter-district routes will have to be decided on the basis of the use of the vehicle. Thus, the jurisdiction of the RTA, to grant the permit was with the RTA. Palakkad within whose jurisdiction the main focus of operation was and hence the order of the RTA. Malappuram refusing to consider the application was proper and in accordance with law and the STAT was not justified in interfering with the order of the RTA Malappuram and hence the judgment of the STAT in MVAA No. 665/2001 and the further orders thereon are liable to be set aside.;

7. Exhibit P7 order of the STAT in MVAA No. 665/2001 and the further order passed by the RTA, Malappuram are quashed. The application filed by C. P. Mohammed Alt for the grant of regular permit shall be considered by the RTA, Palakkad and orders shall be passed in accordance with law.

These original petitions are disposed of accordingly.