

(2002) 09 KL CK 0075
In the High Court Of Kerala
Case No : O.P. No. 9605 of 2002

Elias Mathai

APPELLANT

Vs

Regional Transport Authority

RESPONDENT

Date of Decision : 03-09-2002

Acts Referred:

Motor Vehicles Act, 1988 — Section 69, 71

Citation : (2003) 1 ACC 204 : (2002) 3 ILR (Ker) 311

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 and Binoy Vasudevan, for the Respondent

Judgement

R. Rajendra Babu, J.—Sri. C.P. Mohammedali (the third respondent in OP 9605/2002) filed an application before the first respondent, R.T.A., 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 R.T.A., Palakkad. By the proceedings dated 9.7.2001, the R.T.A., 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. Mohammedali before the S.T.A.T. in M.V.A.A. No. 665/2001. By Ext. P7 order dated 15.11.2001 the S.T.A.T. 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 O.P. No. 9605/2002 before this Court for quashing Ext. P7 order of the S.T.A.T. In pursuance to Ext. P7 order of the S.T.A.T., regular permit was granted to Sri. C.P. Mohammedali by the proceedings of the first respondent dated 22.3.2002. Petitioners in O.P. 9605/2002 challenged the above grant by filing O.P. No. 13846/2002 before this Court.

2. Heard the learned counsel for the petitioners, the learned counsel for Sri. C.P.

Mohemmadali (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. Mohammedali challenged the above order before the S.T.A.T. and the S.T.A.T. took the view that the application should be filed before the authority within whose jurisdiction the route length was more. Accordingly, the S.T.A.T. directed the first respondent to decide the matter afresh.

4. The main question for consideration is which of the R.T.A.s has the jurisdiction to grant regular stage carriage permit when the route length is more in, one district where as 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 R.T.A. 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 R.T.A., 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 Anr."

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 notional 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 there of. 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 R.T.A. 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 R.T.A. 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, ie., the operation of the vehicle is more, even if the route length is more in the other District, the jurisdiction shall be with the R.T.A. in whose jurisdiction the use of the vehicle is more.

5. The learned counsel for the petitioners further submitted that in giving the meaning of the word "route", for deciding the jurisdiction of the R.T.A., 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 R.T.A. 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 R.T.A.S by which the notification u/s 71(3) of the Act is defeated, whereby a large number of vehicles are allowed to operate mainly within the city limits. In fact, certain permits were issued by the neighbouring R.T.A.s wherein the main focus of operation of the vehicle was within the city limits, ie., 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 R.T.A., Malappuram, the authority granting the permit.

6. The learned counsel for the petitioner further submitted that the R.T.A., Ernakulam had already taken a decision on 26.11.1996 to request the other R.T.A.s not to issue permits to operate the vehicles mainly within the city limits of Ernakulam. In fact, the R.T.A., 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 R.T.A.s 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 R.T.A. 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 R.T.A. to grant the permit was with the R.T.A., Palakkad within whose jurisdiction the main focus of operation was and hence the order of the R.T.A., Malappuram refusing to consider the application was proper and in accordance with law and the S.T.A.T. was not justified in interfering with the order of the R.T.A., Malappuram and hence the judgment of the S.T.A.T. in M.V.A.A. No. 665/2001 and the further orders thereon are liable to be set aside.

7. Ext. P7 order of the S.T.A.T. in M.V.A.A. No. 665/2001 and the further order passed by the R.T.A., Malappuram are quashed. The application filed by C.P. Mohammedali for the grant of regular permit shall be considered by the R.T.A., Palakkad and orders shall be passed in accordance with law.

These Original Petitions are disposed of accordingly.