
(2008) 03 P&H CK 0114
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3326 of 2007

Gamdoor Singh

APPELLANT

Vs

Additional State Transport Commissioner, Punjab and others

RESPONDENT

Date of Decision : 12-03-2008

Acts Referred:

Citation : (2009) 1 AICJ 412 : (2008) 4 RCR(Civil) 43

Hon'ble Judges : Satish Kumar Mittal, J and Rakesh Kumar Garg, J

Advocate : Mr. H.S. Sawhney, Senior Advocate, with Mr. B.S. Giri, Advocate. Mr. Suvir Sehgal, Addl. A.G., Punjab, Mr. Jagdish Marwaha, Advocate., Advocates for appearing Parties

Judgement

Satish Kumar Mittal, J.—The petitioner has filed this petition under Articles 226/227 of the Constitution of India for setting aside the order dated 21.12.2006, passed by the State Transport Appellate Tribunal, Punjab, Chandigarh (hereinafter referred to as 'the Appellate Tribunal'), whereby on revision petition filed by the Pepsu Road Transport Corporation, Patiala (respondent No. 3 herein), the order dated 18.11.2005 passed by the Additional State Transport Commissioner, Punjab, exercising the powers of the Regional Transport Authority, Patiala (hereinafter referred to as 'the STC') granting regular extension of the route of the stage carriage permit upto Dharamheri from Samana and allowing decrease in trips from four to three daily on the varied route, has been set aside.

2. In the present case, the petitioner was holding one regular stage carriage permit No. 485/MBR/97 with four return trips daily for operation of mini bus on Nadampur to Bus Stand Samana via Kadrabad, Kulburchhan, Gajipur, Bishanpura, Kahangarh route. The said permit was granted to the petitioner in the year 1997. Subsequently, in the year 2005, he filed an application for the grant of regular extension of the said route upto Dharamheri from Samana via Mehmoodpur Adda, Badanpur, Gheora village Chaba, Daba, Sarora, Khushal Majra, Udam Singh Chowk, Cheeka, Sadarheri, Katiana and for decrease in

return trips from four to three trips daily on varied route in public interest. On that application, a survey was got conducted from the District Transport Officer, Patiala, who reported that the proposed extension of the route being 8.6 Kms. was permissible under Section 80(3) of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). When the contents of the said application were got published, respondent No. 3 PRTC raised objection to the proposed extension in the route. It was objected that the proposed extension of the route from Samana upto Dharamheri covering a length of 19 Kms. lies in the State of Haryana, therefore, the same was in violation of the provisions contained in the second proviso to subsection 1 of Section 88 of the Act, which provides that where both the starting point and termini point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed 16 Kms., the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State. It was further objected that the proposed extension is contrary to the notification dated 22.2.2005, whereby the State Government has formulated the routes in respect of grant of mini bus permits and the proposed extension route does not fall under the list of formulated routes, notified by the State by the aforesaid notification. Therefore, the proposed extension of the route cannot be granted.

3. The STC, while ignoring the objections raised by respondent No. 3 PRTC, allowed the application filed by the petitioner and extended the route of the petitioner from Samana upto Dharamheri and decreased the trips from four to three daily on the varied route, in the public interest.

4. Feeling aggrieved against the said order, a revision petition was filed by respondent No. 3 PRTC, which has been allowed and the aforesaid order dated 18.11.2005, passed by the STC, has been set aside by the Appellate Tribunal, while holding that the extension has been granted by the STC beyond the permissible limit of 16 Kms. qua the area falling in the State of Haryana which as per the report of the Surveying Officer comes to 19 Kms. Thus, the said extension was contrary to the provisions contained in the second proviso to subsection 1 of Section 88 of the Act. Secondly, it was held that the extension granted by the STC was contrary to the notification dated 22.2.2005, whereby the State Government has formulated the routes in respect of mini bus permits, as the extended route does not fall in the routes formulated by the aforesaid notification.

5. The petitioner has challenged the aforesaid order by controverting the factual position with regard to portion of the extended route, which falls within the territory of the State of Haryana. Counsel for the petitioner submits that as per the survey report, the proposed extension of the route is 8.6 Kms. in the territory of Haryana, which is permissible under Section 80(3) of the Act.

6. The aforesaid factual position was controverted by respondent No. 3 PRTC

before the Appellate Tribunal as well as before this Court. It has been submitted by counsel for respondent No. 3 PRTC that portion of the proposed extension falling in the territory of the State of Haryana is near about 19 Kms. In terms of the interim order dated November 16, 2007, passed by this Court, counsel for respondent No. 3 PRTC has placed on record the affidavit of Shri Satnam Singh, General Manager, PRTC, Sangrur depot along with site plan of the route in question, indicating the proposed increase and giving the distance between different villages. According to the said affidavit and the site plan, the extended portion from Samana to Dharamheri is 28.8 Kms., out of which 19.4 Kms. falls in the territory of Haryana. This factual position was also accepted by the Appellate Tribunal, while holding that the extension granted to the petitioner from Samana to Dharamheri covers a length of 19 Kms., which violates the second proviso to subsection 1 of Section 88 of the Act. In our opinion, there is sufficient material on the record, on the basis of which the aforesaid finding has been recorded by the Appellate Tribunal and if this finding is accepted, then the extension granted to the petitioner was violative of the second proviso to subsection 1 of Section 88 of the Act and the Appellate Tribunal has rightly set aside the said extension on the ground.

7. Secondly, learned counsel for the petitioner has argued that the Appellate Tribunal has committed a material illegality while setting aside the order dated 18.11.2005 on the ground that the route in question is not a formulated route under notification dated 22.2.2005. He submits that in view of the liberalized policy for grant of permits, as held in *Mithilesh Garg etc. v. Union of India and others etc.*, AIR 1992 Supreme Court 443, permits can be granted on the route even if not formulated under Section 68(3)(ca) of the Act. In support of his contention, learned counsel relied upon a Division Bench judgment of this Court in CWP No. 4381 of 2006, titled as *Libra Bus Service Ltd. and another v. State Transport Commissioner, Punjab and another*, decided on 30.5.2006.

8. On the other hand, counsel for respondent No. 3 PRTC submits that the stage carriage permits for operation of mini buses can be granted liberally only on those routes which are formulated under Section 68(3)(ca) of the Act. He submits that in exercise of the power conferred by clause (ca) of sub section (3) of Section 68 of the Act, the State Government has issued a notification dated 22.2.2005, in which various routes have been formulated for plying the mini buses. He submits that the route in question, on which the extension has been granted, does not fall on any of the formulated routes of District Patiala, therefore, no extension of the route of a stage carriage permit can be allowed on a route, which does not fall in the list of formulated routes for operation of the mini bus. Counsel for respondent No. 3 PRTC further submits that subsection (3) of Section 80 of the Act provides that an application for extension or alteration of route shall be treated as an application for the grant of a new permit. Since the new permit cannot be granted on a route, which does not fall under the notification notified by the State Government for operation of the mini bus, the Appellate Tribunal was fully justified in setting aside the proposed extension on

the said route.

9. After hearing counsel for the parties, we do not find any substance in the aforesaid contention raised by learned counsel for the petitioner. Clause (ca) of subsection (3) of Section 68 of the Act empowers the State Government to formulate routes for plying stage carriages under Chapter V of the Act. If the State Government in exercise of this power formulates routes for plying stage carriages on a particular time, then only the permits can be granted on those specified routes, but where the State Government, in exercise of the said power, has not formulated any route for plying stage carriages of any particular type, then the grant of permits is regulated by the liberalized policy laid down in Section 80(2) of the Act, as has been held by the Supreme Court in *Mithilesh Garg etc. v. Union of India and others etc.*, (supra). The Division Bench judgment CWP No. 4381 of 2006, titled as *Libra Bus Service Ltd. and another v. State Transport Commissioner, Punjab and another*, decided on 30.5.2006 (supra) referred to by learned counsel for the petitioner pertains to a case where the State Government did not formulate any route for operation of A.C. coaches. In that situation, it was held that Clause (ca) of Section 68(3) of the Act will not pose an obstacle in grant of permit under the liberalized policy, as laid down in Section 80(2) of the Act. But in the instant case, the position is different. In this case, the State Government has formulated the routes for plying the mini buses vide notification dated 22.2.2005. Therefore, the stage carriage permits for plying mini bus is to be granted only on a particular formulated route, as has been notified in the notification dated 22.2.2005. Since the proposed extension of the route does not fall under any of the formulated routes, prescribed in the aforesaid notification, therefore, in our opinion, the Appellate Tribunal has rightly come to the conclusion that extension of the route from Samana upto Dharamheri is violative of the notification dated 22.2.2005. The Division Bench judgment of this Court CWP No. 4381 of 2006, titled as *Libra Bus Service Ltd. and another v. State Transport Commissioner, Punjab and another*, decided on 30.5.2006 (supra), relied upon by counsel for the petitioner, is not applicable to the facts and circumstances of the present case.

In view of the above, we do not find any ground to interfere in the impugned order, passed by the Appellate Tribunal.

Dismissed.