

(1959) 02 RAJ CK 0014
In the Rajasthan High Court
Case No : Writ Petition No. 164 of 1958

General Motor Bus Service, Jaipur	Vs	APPELLANT
Regional Transport Authority, Jaipur and Another		RESPONDENT

Date of Decision : 24-02-1959

Acts Referred:

Motor Vehicles Act, 1939 — Section 44(3), 47, 57

Citation : AIR 1961 Raj 129 : (1959) RLW 546

Hon'ble Judges : K.L. Bapna, Acting C.J.; Jagat Narayan, J

Bench : Division Bench

Advocate : J.G. Chhangani and B.S. Sharma, for the Appellant; C.B. Bhargava, Deputy Govt. Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Jagat Narayan, J.—This is a petition under Article 226 of the Constitution by Messrs. General Motor Bus Service, Jaipur, against the Regional Transport Authority and the State Transport Authority, Rajasthan,

2. The facts, which have given rise to this petition, are these. The petitioner applied for grant of four temporary permits for plying stage carriages between Jaipur and Kotah on 25th November, 1954, and for grant of four non-temporary permits on the same route on 3rd December, 1954. It may be mentioned that there is no direct service between, Kotah and Jaipur so far. Buses ply between Kotah and Deoli and Deoli and Jaipur.

The R. T. A. did not publish the applications for grant of non-temporary permits on account of a direction issued by the S. T. A. by its resolution dated 24th January, 1955, asking the R. T. A. to open the Jaipur-Kotah route, on a temporary basis to assess the traffic potentiality. It authorised the R. T. A. to issue two temporary permits along the route. The R. T. A., however, maintained that as there was no temporary need, a temporary permit could not be issued, and invited applications for grant of "non-temporary permits, by resolution dated

27, 28/29th June, 1955. In response to the invitation, the petitioner applied for the grant of six non-temporary permits to it on 22nd August, 1955.

These applications were published, but no decision was taken on them by the R. T. A. as required by Section 56 of the Motor Vehicles Act. The reason was that the S. T. A. passed a resolution on 7th September, 1955, directing the R. T. A., Jaipur, not to issue non-temporary permits along the route. The applications of the petitioner have not yet been decided by the R. T. A., Jaipur. It is prayed that a writ of mandamus be issued to the R. T. A. directing it to decide the applications in accordance with the provisions of Section 57 of the Motor Vehicles Act.

3. So far as the application of the petitioner for grant of temporary permits is concerned, it is conceded on behalf of the petitioner that such permits cannot be granted as there is no temporary need. The) petition is only pressed with regard to the grant of permanent permits.

4. The petition is opposed on behalf of the State Transport Authority. From the affidavit filed by the Director of Transport, Rajasthan, it appears that the State Government is considering a proposal to nationalise certain routes, including the Jaipur-Kotah route, and with this object, have requested the Central Government to enforce the Road Transport Corporation Act, 1950, in the territory of the State of Rajasthan, and pending consideration of the proposal, the S. T. A. has by its resolution dated 24th June, 1958 given directions to postpone the consideration of grant of permits on the routes proposed to be nationalised, including the Jaipur-Kotah route.

5. On behalf of the respondents, it is argued that it is open to the S. T. A. to issue such a direction u/s 44 (3) (a) of the Motor Vehicles Act, and the R. T. A. is bound to give effect to it in the discharge of its functions under the Act in view of the provision of Section 44 (4) of the Act.

6. The contention on behalf of the petitioner is that such a direction cannot be issued, as it is opposed to the provisions of Sections 47 and 57 of the Act. The case of *Madhab Chandra Das v. Regional Transport Authority*, AIR 1954 Ass 212 was referred to in support of this contention.

7. We have carefully considered the provisions of Section 44 and Sections 47 and 57 of the Act, and we do not think that there is any conflict between the direction issued by the S. T. A. in this case and the provisions of Sections 47 and 57 of the Act. So far as the Assam case, AIR 1954 Ass 212 is concerned, it was decided before the amended Motor Vehicles Act came into force, In the Act, as it stood at the time of the decision, there was no provision for nationalising the transport service along any route.

8. We accordingly see no reason to interfere with the direction issued by the S. T. A., which, in our opinion, can validly be issued u/s 44 (3) (a) of the Act, and which is also appropriate in the circumstances of the case. For a non-temporary

permit cannot be issued for a shorter period than three) years and on nationalising the route compensation becomes payable to permit holders u/s 68-G of the Act for the unexpired period of the permit at a substantial rate. The route is already served by two sets of stage carriages as well as by rail and it cannot be said that the public is being seriously inconvenienced by the absence of a direct stage carriage running between Jaipur and Kotah. We accordingly reject the petition. In the circumstances of the case, we direct the parties to bear their own costs.

9. It was prayed that the case be certified as a fit one for appeal to the Supreme Court. We do not see sufficient reason to do so and reject the prayer.