

(1996) 09 AP CK 0009

In the Andhra Pradesh High Court

Case No : Writ Petition No. 8641 of 1996

Guntur City Bus Operators Association

APPELLANT

Vs

Transport Commissioner and Others

RESPONDENT

Date of Decision : 09-09-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 1 ALT 623

Hon'ble Judges : G. Bikshapathy, J

Bench : Single Bench

Advocate : K.N. Jwala, for the Appellant; G.P. for Respondent Nos. 1 to 3, G.P. for Home for Respondent Nos. 4 and 5 and P. Venkateswarlu, for the Respondent

Judgement

G. Bikshapathy, J.—The Writ Petition is filed by the Guntur City Bus Owners Association making out a grievance that they are being harassed at the instance of the 6th respondent and that they should be allowed to operate the buses in pursuance of the permits granted by the authorities.

2. The petitioner submits that there are about 40 city routes in the Guntur town and 130 buses are being operated in the said town on the town/city bus service routes catering to the needs of the travelling public. Apart from this, the R.T.C. is also conducting transport operations. It appears that some fatal accidents took place while operating the buses and therefore there was commotion and public resistance in the township. Some of the private buses were also damaged on account of fatal accidents. The 6th respondent organisation is spearheading the cause of the victims and trying to pressurise the officials with a view to harass the private transport operators. The police and transport authorities are also yielding to the pressure of the organisation and therefore they seek appropriate direction to permit them to operate stage carriage buses on 6 town route services mentioned in the writ petition.

3. The police filed counter stating that the accidents are taking place in the city and that some of the permits were also recommended for cancellation.

Proceedings were also initiated on the drivers. There is a public agitation protesting against the rash and negligent operation, of the private operators and they also sought for regulation of the buses.

4. The 6th respondent also filed counter stating that the accidents are increasing day by day in Guntur town and number of persons became victims of this rash and negligent driving by the drivers of the private buses. They have also given certain details in the counter. It is also their complaint that these buses being run in gross violation of the provisions of the Motor Vehicles Act and the authorities joining hands with the operators with the result, the public convenience is given a least importance. Though they are not averse to granting permits to the private operators, but at the same time, they must be rationalised and the operation of buses shall be regulated in such a way as to not to have a clash of timings and that they conduct their operations to the safety of the passengers and also other road users.

5. Heard the learned Counsel for the petitioners Mr. K.N. Jwala, the learned Counsel for 6th respondent Mr. Prattipati Venkateshwarlu and the learned Government Pleader for Transport.

6. The Motor Vehicles Act contains comprehensive provisions for regulating the operation of the vehicles both private and public transport system. The various restrictions have been placed on issuance of the permits, at the same time keeping in view the public demand and public convenience. The nationalisation is taking place and also the permits are being granted. It is a common feature that the accidents are taking place and they are on the ascending order. It is imperative that all possible endeavour should be made by the authorities such as transport and police department and also the operators both private and State undertakings.

7. The learned Counsel for the petitioner Mr. K.N. Jwala submits that in the interim order issued by this Court, the State Transport undertaking was also made a member of the Committee for regulating the buses of the private operators. Such an arrangement would seriously affect the interest of the private operators, inasmuch as the R.T.C. is to be treated as one of the operators. If the R.T.C. is to be treated as a member of the Committee, it will certainly act to the prejudice of the private operators. The learned Counsel referred to the decision of the Supreme Court reported in *Ishwar Singh Bagga and Others Vs. State of Rajasthan*, wherein the Supreme Court while dealing with Sections 128 and 129-A of Motor Vehicles Act, 1939 held that the expression "other persons" mentioned in the Section has to be read ejusdem generis and if so read, it can only be referred to the Officer of any Government and not to any Officer or employee of any statutory Corporation or any other private persons. Therefore, the notification issued by the Government authorising the Deputy General Manager and Assistant Depot Managers of the State Transport undertaking to discharge the functions u/s 129-A was held to be unsustainable. The Supreme Court further observed that on account of unauthorised use of motor vehicles as

stage carriages or contract carriages on the notified routes over which the Corporation has got exclusive right to operate its vehicles, the Corporation was losing a large amount of revenue could not be a satisfactory ground to uphold the notification. It further observed that the police officers and the officers of the Motor Vehicles Department were expected to discharge their duties properly and diligently and if that is done there should be no difficulty in plugging any unauthorised running of the stage carriages or contract carriages on notified route. Therefore, basing on the analogy of the principles laid down by the Supreme Court in that case, the learned Counsel submits that the Corporation which is a competitor to the private operators cannot be put on a higher pedestal and it cannot be placed on any committee to supervise the operations of the private operators. There appears to be substance in the contention of the learned Counsel for the petitioner. But, however, the principal aim should be to avoid any possible accident and at the same time provide effective and satisfactory services to the travelling public. The cause for the accidents may be on account of several factors such as width of the road, the type of public which is using the road, the traffic arrangements made by the police, the nature of the area where the buses are being operated, time gap arrangement by the transport authorities etc. While, it is open for the transport authorities to check the vehicles including the R.T.C. to ensure that they conform to the standards laid down under the Motor Vehicles Act, at the same time intentional harassment has to be avoided. For the purpose of smooth functioning of the transport by the R.T.C. and private operators, it is necessary to have the coordinated efforts of Transport Department and Police Department. Enlightened public co-operation is also very much essential in the process. For this purpose, a scheme has to be evolved for working out the transport arrangements in a more effective manner. It is also seriously contended by the learned Counsel for the petitioner Mr. Jwala that the authorities are allowing the R.T.C. buses to ply without any valid permits, timing charts and fare fixation. It need not be emphasised that in the eye of law there cannot be any distinction between a private operator and State transport undertaking. Offences and violations under the Act are applicable to the R.T.C. with equal force.

8. Under these circumstances, I am inclined to dispose of the Writ Petition with the following directions:

- (1) That the District Collector, Guntur shall constitute a committee consisting of the Officers from the Department of Transport, Police, R & B, R.T.C. and also the private operators including public spirited persons for the effective and safety operation of the transport system in the township.
- (2) The Committee shall frame the various norms apart from the statutory provisions contained in the Motor Vehicles Act for ensuring efficient and effective services to the travelling public and at the same time achieve the accident free operations.
- (3) The Committee shall also go into various aspects of the problems of the

private operators and also the State Transport undertaking and rectify their grievances permissible within the limits, but without transgressing the statutory provisions under the Act.

(4) The periodical meetings should be conducted by the District Collector as the Chairman of the Committee and the issues be discussed and solutions arrived at unanimously.

(5) The above directions are only illustrative and not exhaustive. It is open for the Committee to evolve various guidelines for attaining the objectives of Motor Vehicles Act.

9. The Writ Petition is disposed of accordingly. No costs.

After pronouncing the Judgment, the following additional direction has been granted.

The Officers of the Transport Department and Police Department shall allow the buses of private operators to operate their buses, if they are found fit in accordance with the terms of the permit granted to them forthwith.