

(1977) 07 MP CK 0004

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition Case No. 244 of 1976

Harcharanlal Gupta

APPELLANT

Vs

Regional Transport Authority, Gwalior and Others

RESPONDENT

Date of Decision : 20-07-1977

Acts Referred:

Motor Vehicles Act, 1939 — Section 57(2), 58(2)

Citation : AIR 1978 MP 22 : (1977) JLJ 728 : (1977) MPLJ 816

Hon'ble Judges : P.D. Mulye, J;G.P. Singh, J

Bench : Division Bench

Advocate : D.V. Nigudkar, for the Appellant; M.C. Gupta, for No. 4, for the Respondent

Final Decision : Dismissed

Judgement

Singh, J.

The petitioner was holder of permit No. 29 of 1972 for the route Guna-Sironj. The permit was valid up to 27th May 1975. The petitioner applied for renewal of his permit on 26th August 1974. This application was published in the Gazette dated 18th Oct., 1974. The Gazette publication contained a footnote inviting fresh applications for the route within 30 days. Respondents 3 and 4 made applications for the grant of permit on the said route on 9th and 12th Nov., 1974 respectively. Their applications were published in the Gazette in March 1975 inviting objections within 30 days. The petitioner then filed this petition under Article 226 of the Constitution in April 1975. The petitioner's contention in this petition is that the Regional Transport Authority should not have invited applications for fresh permit and that the Authority should be restrained from considering the applications of respondents 3 and 4 along with the application of the petitioner.

Learned counsel for the petitioner has relied on the case of Bipatlal Jaiswal Vs. Regional Transport Authority, Jabalpur and Others, in support of the contention

that after publication of the petitioner's application for renewal, no applications should have been invited by the R.T.A. In our opinion, the Full Bench case is distinguishable on facts and this petition must be dismissed.

It will be seen that the petitioner's permit was expiring on 27th May 1975. An application for renewal has to be made u/s 58(2) of the Motor Vehicles Act not less than 120 days before the date of its expiry. The idea behind this provision is that the application for renewal would be disposed of normally within 120 days and the renewed permit would be effective from the date of the expiry of the original permit. In this context, reference is also necessary to Section 57 (2) of the Act. Under this section, an application for a stage carriage permit has to be made not less than six weeks before the date on which it is desired that the permit shall take effect. The parties interested to ply stage carriages on a route can easily know the date of expiry of any permit covering the route. They can apply for fresh permit to be effective from that date within the period allowed u/s 57 (2). During the period the existing permit is in operation, a vacancy does not occur in lieu thereof. The question that arises in such cases before the Regional Transport Authority is either to renew the existing permit from the date of its expiry or to grant a new permit from that date. By considering the application for renewal with other applications, public interest is better served because the Regional Transport Authority has a more wide range of selection than when he considers the application for renewal alone. The person holding the permit and the persons interested in getting new permit on the route have to apply for renewal and fresh grant of permit within the period of limitation allowed by Sections 58 (2) and 57 (2) so that their applications may be considered and disposed of before the date of expiry of the permit. In our opinion, even after an application for renewal is published, fresh applications for permit can be entertained and can be considered along with the application for renewal, provided it is possible to finally dispose of the application for renewal and the applications for fresh permit before the date of expiry of the permit.

In the instant case, the petitioner applied eight months before the date of expiry of his permit. The petitioner's application was published on 18th October 1974. It is true that it became ripe for consideration after the expiry of the period allowed for lodging objections, i.e. 30 days. But it is a point to be noted that the vacancy was to occur nearly six months thereafter. The disposal of the petitioner's application six months before the date on which the permit was to expire would not have conferred any benefit on the petitioner except this that he would have gained a tactical advantage of the consideration of his application without meeting any competition from other applications. Respondents 3 and 4, as already stated, applied on 9th and 12th Nov., 1974. Their applications were within limitation u/s 57 (2) as also u/s 58 (2) of the Act. These applications were published in the middle of March 19-75 and became ripe for consideration after 30 days. These applications as also the application for renewal made by the petitioner could have been easily considered and disposed of before expiry of the permit. Consideration of all these applications together would advance public

interest for, as pointed out earlier, the Regional Transport Authority would have a wider field of selection. In our opinion, applications for renewal should not be considered by the Regional Transport Authority at such an early stage that there is no chance of other competitors to come in the field. It is true that Regional Transport Authority should not delay the disposal of an application for renewal beyond the date of expiry of the permit. But if the application for renewal and other applications received in lieu of renewal can be disposed of before that date, we do not find any illegality or irregularity if the Authority decides to dispose of all these applications together instead of dealing them one by one. Rather, in our opinion, it would be more advisable for the Authority to dispose of all the applications together so that a proper person may be selected for operating on the route.

The argument of the learned counsel for the petitioner that the R.T.A. has no power to invite applications after the application for renewal is published, is based on the Full Bench case referred to above. Even assuming that that is the correct legal position, we find that there was no legal bar for respondents 3 and 4 to apply for grant of a permit in lieu of renewal even without any invitation. Their applications being well within time both under Sections 57 (2) and 58 (2) of the Act, they could have been disposed of along with the application for renewal made by the petitioner before the expiry of the permit. In these circumstances, in our opinion, the R.T.A. cannot be restrained from considering the applications made by respondents 3 and 4 along with the application for renewal made by the petitioner. In the Full Bench case, the permit expired on 19th April 1970. The notification inviting fresh applications was Issued on 15th May 1970, not only after publication of the application for renewal but even after the expiry of the permit. The applications received on such an invitation could not obviously be considered before the date of expiry of the permit. As earlier pointed out the facts in the instant case are entirely different. The applications for permit in lieu of renewal were made well within the statutory period of limitation provided under Sections 53 (2) and 57 (2) of the Act and they could have been easily disposed of along with the application for renewal before the date of expiry of the permit. The Full Bench case, in our opinion, is not applicable on these facts.

The petition fails and is dismissed. There shall, however, be no order as to costs of this petition. The amount of the security deposit be refunded to the Petitioner.