
(1965) 11 MP CK 0007
In the Madhya Pradesh High Court
Case No : M.P. No. 325 of 1965

Hazi Nazir Bhai

APPELLANT

Vs

State Transport Authority, M.P., Gwalior and another

RESPONDENT

Date of Decision : 06-11-1965

Acts Referred:

Citation : (1966) JLJ 216 : (1966) MPLJ 35

Hon'ble Judges : P.V. Dixit, C.J.; R.J. Bhawe, J

Bench : Division Bench

Final Decision : Allowed

Judgement

P.V. Dixit, C.J.

The facts and circumstances leading to this application under Articles 226 and 227 of the Constitution are that the Petitioner is a holder of a permit for Indore-Nemawar route and the opponent No. 2 Amir Bhai holds a permit for Dewas-Nemawar route. On 30th July 1964 the Regional Transport Authority, Indore, fixed the timing of the running of the Respondent No. 2's services on Dewas-Nemawar route. The applicant aggrieved by the fixation of timing by the Regional Transport Authority for Dewas-Nemawar filed an appeal against the said order of the Regional Transport Authority to the State Transport Appellate Authority. He also filed a revision petition before the State Transport Authority against the same order of the Regional Transport Authority. The Petitioner's appeal was allowed. The applicant, therefore, did not think it necessary to press the revision petition he had filed to the State Transport Authority. Accordingly on 5th February 1965 he addressed a communication to the State Transport Authority saying that he did not wish to press the revision petition. The revision petition came up for hearing before the State Transport Authority on 9th February 1965 and that authority finding that the Petitioner was not of present dismissed it for default.

In the meantime, the opponent Amir Bhai filed an application under Articles 226

and 227 of the Constitution for quashing the order of the State Transport Appellate Authority allowing the appeal which the Petitioner had filed against the order of the Regional Transport Authority. That application was allowed by a Division Bench of this Court on 31st March 1965 quashing the decision of the Appellate Authority and directing the State Transport Authority to decide the revision petition preferred by the applicant within a month.

The revision petition filed by the applicant should have been heard and decided by the State Transport Authority as directed by this Court in its order in *Amir Bhai v. The R.T. A., Indore and Ors.* M.P. No. 86 of 1965 decided on 31.03.1965. But the State Transport Authority took the view that the revision petition could not be heard as it was not dismissed by it on 9th February 1965 on the ground that it had become infructuous as stated by this Court in its order dated 31st March 1965, but that actually it was dismissed on that date for default of the Petitioner. While refusing to rehear the petition the State Transport Authority observed that it was not brought to the notice of this Court at the time of the hearing of Misc. Petition No. 86 of 1965 that the said revision petition had been dismissed for default of the Petitioner's appearance.

The applicant now seeks a writ of mandamus commanding the State Transport Authority to hear and decide his revision petition as directed by this Court by its order in *Amirbhai v. R.T. A., Indore and Ors.* Misc. Petn. No. 86 of 1966 decided on the 31st March 1965.

In our judgment, this petition must be granted. When this Court directed the State Transport Authority by its order dated 31st March 1965 disposing of Misc. Petition No. 86 of 1965 to hear and decide the Petitioner's revision petition, the State Transport Authority was bound to carry out the direction. It was not open to the State Transport Authority to examine whether the direction was correct or not or whether the circumstances in which the Petitioner's revision petition was dismissed on 9th February 1965 were correctly placed before this Court at the time of the hearing of Misc. Petition No- 86 of 1965. The effect of the direction made by this Court requiring the State Transport Authority to hear and decide the revision petition was that the order of dismissal passed by the State Transport Authority was set aside and the revision petition became one pending before the State Transport Authority. That being so, it makes no difference whether the revision petition was dismissed for having become infructuous or on the ground of the Petitioner's non-appearance.

The present case is analogous to the case of *The Bhopal Sugar Industries Ltd. Vs. The Income Tax Officer, Bhopal*, where the income tax Officer refused to carry out certain directions made by the income tax Appellate Tribunal. The Judicial Commissioner, Bhopal rejected an application filed under Article 226 of the Constitution by the Assessee Bhopal Sugar Industries for the issue of a direction in the nature of mandamus compelling the income tax Officer, Bhopal, to carry out the direction given by the Appellate Tribunal. When the matter went up in appeal before the Supreme Court, it was held that the Judicial

Commissioner erred in refusing to issue the writ of mandamus prayed for. The Supreme. Court observed:-

We think that the learned Judicial Commissioner was clearly in error in holding that no manifest injustice resulted from the order of the Respondent conveyed in his letter dated March 24, 1955. By that order the Respondent virtually refused to carry out the direction's which a superior tribunal had given to him in exercise of its appellate powers in respect of an order of assessment made by him. Such refusal is in effect a denial of justice, and is further more destructive of one of the basic principles in the administration of justice based as it is in this country on a hierarchy of Courts. If a subordinate tribunal refuses to carry out directions given to it by a superior Tribunal in the exercise of its appellate powers, the result will be chaos in the administration of justice.

The above observations clearly show that the order passed by the State Transport Authority on 4th May 1965 refusing to hear the Petitioner's revision petition is indefensible and cannot be sustained on any ground.

For these reasons, the order dated 4th May 1965 of the State Transport Authority refusing to hear and decide the Petitioner's revision petition is quashed. The State Transport Authority is ordered to carry out the direction given by this Court in its order dated 31st March 1965 disposing of Misc. Petition No. 86 of 1965 and hear and decide the applicant's revision petition on or before 11th December 1965. The Petitioner shall have costs of this application from the Respondent No. 2 Amir Bhai. Counsel's fee is fixed at Rs. 100. The outstanding amount of the security deposit shall be refunded to the Petitioner.