

(1962) 11 KAR CK 0011
In the Karnataka High Court
Case No : Writ Petition No. 832 of 1962

H.C. Channiah Prop. H.P.C. Motor Service	APPELLANT
Vs	
Regional Transport Authority Chickmagalur and Another	RESPONDENT

Date of Decision : 22-11-1962

Acts Referred:

Motor Vehicles Act, 1939 — Section 48, 48 (3), 57, 57 (3)

Citation : AIR 1963 Kar 253 : AIR 1962 Kar 253

Hon'ble Judges : Mir Iqbal Husain, J;A.R. Somnath Iyer, J

Bench : Division Bench

Advocate : Mohandas N. Hegde, for the Appellant; M. Rangaswami and S.R.S. Hoysale, for the Respondent

Judgement

Somnath Iyer, J.—The complaint made in this writ petition is against the proposal on the part of the Regional Transport Authority, Chickmagalur to assign timings to the various operators who were granted permits by it in December, 1961 and January 1962, in respect of various routes to which reference would be unnecessary in the course of this order. It is not disputed that when permits were granted to those operators during those two months, the Regional Transport Authority assigned to those operators timings which had to be in operation until timings were permanently assigned to them. On April 16, 1962, the Regional Transport Authority made an announcement that it would assign permanent timings to those operators after hearing the parties. That assignment was not made by it on the date specified in that announcement. There was once again another announcement in that regard and the last announcement which was made by the Regional Transport Authority was the one made on July 5, 1962 in which it was announced that at its meeting to be held on July 26, 27 and 28, 1962, the assignment of the timings would be decided upon.

2. The petitioner who operates his stage carriage on the route between Kadur and Shimoga, objected to the Regional Transport Authority embarking on the assignment of timings in that way. His objection was that before any timings

could be assigned to any of those other operators the Regional Transport Authority should call upon them to make an application for a revision of the timings already provisionally assigned to them and publish those applications u/s 57(3), Motor Vehicles Act, and dispose of them according to law. In support of that objection Mr. Hegde has urged before us the contention that once permits were granted to the operators and timings were assigned to them although tentatively, the Regional Transport Authority completed the performance of every duty which it had to perform u/s 57 of the Act, without any part of that duty remaining outstanding, which could now be performed by it as it proposes to do. That being so, it was urged that the only method by which the Regional Transport Authority can now assign timings to those operators was by calling for applications for that purpose and by deciding those applications by the adoption of the procedure prescribed in Section 57 of the Act.

3. I do not find it possible to say that Mr. Hegde is right in making this submission. One of the particulars to be stated in an application for the grant of a stage carriage permit, as can be seen from Section 46(c) of the Act, is the time table which the applicant proposes.

4. If u/s 57(3) the substance of the application or applications has to be published, it is clear that the time table proposed by the applicant should also be published, as was done in the case of every one of those operators. Then if under the provisions of Section 57, the Regional Transport Authority decides to grant the permit after the selection of the permit-holder, what the Regional Transport Authority should do simultaneously would be to assign to that person the time table in accordance with which he must operate his stage carriage. That that is a duty which the Regional Transport Authority should perform when it makes the selection of the permit-holder, is what is clearly demonstrated by Clauses (iii) and (iv) of Sub-section (3) of Section 48 of the Act. Those clauses specify the conditions which the Regional Transport Authority may attach to the permit which it decides to grant and those clauses read:

"48. Grant of Stage Carriage Permits:

xx xx xx xx xx 3. The Regional Transport Authority if it decides to grant a stage carriage permit, may grant the permit for a service of stage carriages of a specified description or for one or more particular stage carriages, and may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely:--

xx xx xx xx xx "(iii) that copies of the time table of the service or of particular stage carriages approved by the Regional Transport Authority shall be exhibited on the vehicles and at specified stands and halts, on the route or within the area; (iv) that the service shall be operated within such margins of deviation from the approved time-table as the Regional Transport Authority may from time to time specify;

These two conditions which may be attached to a permit granted by the Regional

Transport Authority make it abundantly clear that on the occasion when the permit is granted to a person, the Regional Transport Authority must make up its mind as to the particulars of the time table in conformity with which the permit-holder should operate his stage carriage. It is only if a decision is taken on that matter by the Regional Transport Authority that it can find it possible to impose a condition that copies of that time table should be exhibited in the stage carriage or to prescribe margins of deviation from the approved time-table. That the Regional Transport Authority has the power to direct the operator to exhibit in his stage carriage the approved time table or his power to authorise the operation of the stage carriage with slight modifications of the time- table makes it, in my opinion, more than clear that the legislative intent was that the time table must be prescribed by the Regional Transport Authority when it grants the permit without postponing the preparation of that time-table to a future occasion.

5. The assignment of provisional timings by the Regional Transport Authority as it purported to do in this case is, in my opinion, an extremely inconvenient and improper thing to do besides being beyond the competence of the Regional Transport Authority.

6. In that view of the matter, what the Regional Transport Authority must be understood to have done in this case was to improperly postpone a decision on a question on which it should have taken a decision when it granted permits to the operators. That being so, that part of the application of the operators who were selected as the permit-holders which related to the assignment of a timing remained outstanding without being disposed of by the Regional Transport Authority when it made the selection of the permit-holders, and though that postponement was what was not authorised by law, it is clear that when it was announced that that duty would be performed in April 1962 and again in May 1962 and finally in July 1962 what was intended to be done was to dispose of a matter which still remained to be disposed of under the provisions of Sections 57 and 48 of the Act. If this is how we should understand what was done by the Regional Transport Authority, it becomes plain that Mr. Hegde would be on an extremely slippery ground when he asks us to hold that the thing which the Regional Transport Authority was directed by Section 57 to do in regard to the applications presented by the operators having been done by it, nothing more remains to be done by it and not even in the matter of assignment of timings. This argument, to my mind, overlooks the fact that the assignment of timings made by the Regional Transport Authority when It selected the permit-holder was, as it expressly stated, purely tentative, however unauthorised that assignment was.

7. This is therefore, not a case in which we can say, that it was necessary for the Regional Transport Authority to call for fresh applications from the operators for the assignment of timings permanently which was never made to any of them although it was obligatory on the part of the Regional Transport Authority to do so, when it granted the permits. Mr. Hegde, we should say, is quite right in

asking us to say that when the Regional Transport Authority selects" a permit-holder, it is not enough for it to select a permit-holder and to postpone a decision on every other matter which had to be decided by it at the time of the selection. There are many matters in regard to which the Regional Transport Authority must, under the law, reach a decision before it grants a permit to anyone, such as, the route, seating capacity, number of vehicles to be operated on the route, and the like. It may be that some of these matters may be decided on future occasions but it does not appear to me that the preparation of the time-table or the specification of the seating capacity of the vehicle or the number of vehicles which may be operated on the route are matters on which the Regional Transport Authority can postpone a decision until after the permit is granted. These are matters on which the Regional Transport Authority must take a decision at the time of the selection of the permit-holder; although the conditions imposed in that regard may be subject to variation according to law on an application made for that purpose.

8. It is enough to say that this elucidation of the procedure to be adopted by the Regional Transport Authorities in future will, I think, serve the purpose for the achievement of which this writ petition has been presented. The only other thing that we need do is to dismiss this writ petition. No costs.

Mir Iqbal Husain, J.

9. I agree.