

(1959) 12 KAR CK 0006
In the Karnataka High Court
Case No : Writ Petition No. 968 of 1959

H.M. Shantanna

APPELLANT

Vs

The State Transport Authority in Mysore, Bangalore and
Others

RESPONDENT

Date of Decision : 08-12-1959

Acts Referred:

Motor Vehicles Act, 1988 — Section 64 A
Registration Act, 1908 — Section 77

Citation : AIR 1960 Kar 141

Hon'ble Judges : A.R. Somnath Iyer, J;A. Narayana Pai, J

Bench : Division Bench

Judgement

Narayana Pai, J.

(1) This Writ Petition is directed against an order of the State Transport Authority, Mysore, rejecting as time-barred a revision application filed by the petitioner before it under the provisions of S. 64-A of the Motor Vehicles Act. The order of the Regional Transport Authority, Tumkur, against which the petitioner had preferred that revision application was dated 4-2-1959. The petitioner however was not given notice of that order and was not aware of its having been passed by the Regional Transport Authority; he applied for a certified copy thereof on 6-2-1959, which copy was delivered to him on 11-4-1959.

It is common ground that if 30 days the period of limitation provided under S. 64-A is counted from the date the copy of the order was delivered to the petitioner the revision application before the State Transport Authority was within time. It is also common ground that before the order copy was actually delivered to the petitioner the order had not been communicated. The only question for consideration in this Writ Petition therefore is whether the view taken by the State Transport Authority that the limitation under the proviso would start on the date of the order itself irrespective of the question whether the party affected had or had not notice thereof is correct. Under S. 64-A the State Transport

Authority may either on its own motion call for the records of any case in which an order has been made by a subordinate authority against which no appeal lies and if it appears to the State Transport Authority the order made was either improper or illegal it may pass such order in relation to the case as it deems fit. Then follows the proviso which reads as follows:

"Provided that the State Transport Authority shall not entertain any application from a person aggrieved by an order of a Regional Transport Authority, unless the application is made within thirty days from the date of the order."

(2) The contention on behalf of the petitioner before us is that the order mentioned in the section is an order which is binding on the party and that an order can be so said to be binding on the party only if it is pronounced in the presence of the party or is pronounced after notice to that party. A similar question was considered by Nittoor Sreenivasa Rau, J. in *Puttananje Gowda v. Nanje Gowda* 36 Mys LJ 856 : AIR 1959 Mys 61. Dealing with the limitation applicable to a suit under S. 77 of the Registration Act, his Lordship accepted the contention put forward in that case that limitation of 30 days under that section for the said suit started not on 13-8-1956, the actual date on which registration was refused, but from 16-8-1956 on which date the intimation of refusal to register reached the party's Advocate. His Lordship accepted as correct the proposition of law stated by the Bombay High Court in *Abdul Ali v. Miraj Khan* ILR 28 Bom 8, to the effect that "an order does not become an order unless and until steps are taken by the Officer passing it to bring it to the consciousness and knowledge of the party against whom it is passed."

The learned counsel for the petitioner has also brought to our notice two decisions, one of the Bombay High Court and another of the Madras High Court dealing with limitation applicable to revisions under S. 33-A of the Income Tax Act. In the former case, *Petlad Bulakhidas Mills Co. Ltd. Vs. Raj Singh*, Chagla C. J. observed that:

"If the Legislature gave the right of revision to the assessee under S. 33A was an effective right and if the Legislature provided a period of limitation that period must equally be an effective period. When we say "effective" what we mean is that the whole period must be permitted to the person affected by the order within which he can prefer the application for revision. The Assessee should know that he has a year's time within which to make up his mind whether he should apply for revision or not."

In the alter case, *O.A.O.A.M. Muthiah Chettiar Vs. The Comr. of Income Tax*, , Rajamannar C. J. pointed out that the rule stated above is based upon salutary and just principle, viz., that if a person is given a right to resort to a remedy to get rid of an adverse order within a prescribed time limitation should not be computed from a date earlier than that on which the party aggrieved actually knew of the order or had an opportunity of knowing the order and therefore must be presumed to have had knowledge of the order.

(3) The learned counsel on behalf of the contesting respondent however has argued that the principles stated in the above case, which dealt with similar provisions of other statutes cannot have any application to what he describes as a special and peculiar provision contained in the Motor Vehicles Act. He also states that the fact that the revision being a power of the Court and not a remedy of the party also makes the above principles inapplicable. We are unable to see any difference between the provisions considered in the above decisions and the provisions of S. 64-A of the Motor Vehicles Act. We also do not think that the mere fact the State Transport Authority may of its own motion revise an order of a Regional Transport Authority is sufficient to take away the value of the right given to a party by the same section to make an application to the State Transport Authority to exercise its powers of revision.

It has been further urged before us by the learned counsel for the respondent that unlike cases covered by the Income Tax Act or the Registration Act, under the Motor Vehicles Act a revision application may be made not only by parties who have actually appeared in the proceedings giving rise to the order sought to be revised but also by other parties as well who might be affected by that order. In regard to the latter set of parties the learned counsel argues it cannot be said that the Tribunal which makes an order should give notice to those parties as well. That question however does not arise in this case because admittedly the petitioner was a party who appeared before the Regional Transport Authority and opposed the timings proposed to be granted to the contesting respondent.

(4) We therefore do not find any reason to accept the contentions put forward on behalf of the contesting respondent or to decline to follow the principles stated in the above cases, one of which is a decision of this Court.

(5) The petition is therefore allowed and a writ of certiorari will issue quashing the order of the Transport Authority impugned in this petition. The result of this would be that the Revision application made by the petitioner to the State Transport Authority will have to be entertained and disposed of on merits by that authority. We direct that the State Transport Authority may dispose of the matter expeditiously. There will be no order as to costs.

(6) Petition allowed.