
(1974) 07 KAR CK 0024
In the Karnataka High Court
Case No : Writ Petition No. 2122 of 1973

H.V. Srinivasa Murthy

APPELLANT

Vs

The Regional transportt Authority and Others

RESPONDENT

Date of Decision : 09-07-1974

Acts Referred:

Constitution of India, 1950 — Article 227
Motor Vehicles Act, 1939 — Section 2 (28A), 46 (c)

Citation : AIR 1975 Kar 126 : (1974) ILR (Kar) 1357 : (1974) 2 KarLJ 398

Hon'ble Judges : K. Jagannatha Shetty, J

Bench : Single Bench

Advocate : M. Ranga Swamy, for the Appellant; C.S. Shanthamallappa and A.S. Viswanath, for the Respondent

Judgement

1. This petition under Article 227 of the Constitution, is directed against the order of the Karnataka State Transporter -- Appellate Tribunal, Bangalore by which it has set aside the permit of the petitioner on route Masur to Shimoga and affirmed the grant of permit of respondent 3 on route Shimoga to Masur.
2. The petitioner and respondent 3 are stage carriage operators. Before the Regional Transport Authority Shimoga, the petitioner applied for a permit from Masur to Shimoga. Respondent 3 applied for a permit from Shimoga to Masur. The total distance between Shimoga to Masur or vice-versa is 42 miles, out of which an extent of 3 miles 6 furlongs lies within the jurisdiction of the Regional Transport Authority, Dharwar. The Regional Transport Authority, Shimoga, after considering the said applications, granted permits to both, as prayed for by them.
3. Several rival operators who objected to the grant of those permits, appealed to the Karnataka State Transport Appellate Tribunal. The Tribunal has set aside the permit granted to the petitioner on the ground that there was no need from Masur to Shimoga. It has upheld the grant made to Respondent 3 on the ground that there was need for a permit on route Shimoga to Masur.

4. The first contention urged for the petitioner before me is that the Tribunal has committed an error in confirming the grant of permit to Respondent 3 without considering the relative merits of the petitioner and respondent 3. This contention proceeds on the assumption that the route between Masur to Shimoga is the same route as between Shimoga to Masur. It may be recalled that the petitioner applied for permit on route while respondent 3 asked for a permit on route Shimoga to Masur. In support of the contention, reliance was placed on the definition of route u/s 2 (28-A) and also on the explanation to Section 46 (c) of the Motor Vehicles Act.

5. If the route between Masur and Shimoga is same as the one between Shimoga and Masur, there may be some substance in the contention. But I think it is not the position. The route as defined u/s 2 (28-A) is a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another. The line of travel in the case of the petitioner is between Masur to Shimoga and the line of travel in the case of Respondent 3, is from Shimoga to Masur. These two lines of travel are quite different though the distance covered thereunder may be the same. To state that the route travelled by a passenger from Masur to Shimoga is nothing but the same route travelled by another passenger from Shimoga to Masur, would be contradictory in terms. I do not find any assistance for the contention even under explanation to Clause (c) of Section 46. The said explanation defines a "trip" to mean a single-journey from one point to another, and every return journey shall be deemed to be a separate trip. It only explains the meaning of a trip for the purpose, of Sections 48 and 57. It does not lend support to the contention that the route from point A to point B is the same as the route between Point "B" to point "A".

Apart from that, the- petitioner has specifically applied for a permit on route Masur to Shimoga. I fail to understand how that application could be treated as an application or permit on route Shimoga to Masur. Consideration for the grant of permit on route Masur to Shimoga would be entirely different from the consideration to grant permit on route Shimoga to Masur. The objections from the public against the grant on route Masur to Shimoga might not be the same as against the grant from Shimoga to Masur. There might be too many objections against the former and no objection against the latter. But, then the Regional Transport Authority would not be justified in that case to treat the application of the petitioner as an application for permit on route Shimoga to Masur, and grant permit on the ground that there was no objection. It would be contrary to the entire scheme of the Motor Vehicles Act. I, therefore, reject the contention urged for the petitioner.

6. It was next contended for the petitioner that the Tribunal ought to have at least remanded the matter to the Regional transport Authority, Shimoga, for collecting materials regarding the need for grant of permit from Masur to Shimoga. The learned counsel said that the Tribunal should not have set aside the permit for want of materials on the question of need. I am unable to agree

with this contention. There is no rule that the Tribunal in every case, should direct the Regional Transport Authority to collect materials to justify the permit granted by it. The Tribunal is an appellate authority. If it is of the opinion that there is no need for the grant of permit, it would be well within its power to set aside the permit.

7. It was last contended for the petitioner that the Tribunal affirmed the grant of permit to respondent 3 on the ground that there was also need for the grant of permit on route Masur to Shimoga. I do not find any such reason given by the Tribunal. The Tribunal has categorically stated that there was no need for the grant of permit from Masur to Shimoga and it has upheld the permit granted to respondent 3 on the ground that there was need for permit on the route Shimoga and Masur.

8. In the result, the petition fails and is dismissed; but in the circumstances no costs.

9. Petition dismissed.