
(1977) 02 AHC CK 0028
In the Allahabad High Court
Case No : Writ Petition No. 1502 of 1576

Iqbal Ahmed and others

APPELLANT

Vs

Competent Authority and others

RESPONDENT

Date of Decision : 08-02-1977

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1939 — Chapter 4, Chapter 4A, 48, 68D
Uttar Pradesh Motor Vehicles (Special Provisions) Act, 1976 — Section 1(3), 2(a), 2(e), 4

Citation : (1977) 02 AHC CK 0028

Hon'ble Judges : K.N.Singh, J and N.D.Ojha, J

Final Decision : Allowed

Judgement

K. N. Singh, J.

Petitioners Iqbal Ahmad, Prahlad Saran and Murari Lal are existing operators holding permits for plying stage carriages under Chap IV of the Motor Vehicles Act, 1939, on Ghaziabad Loni route. The Competent Authority constituted under the U. P. Motor Vehicles (Special Provisions) Act, 1976, issued authorisation certificates under Section 4 of the said Act authorising the use of minibuses owned by respondents 5 to 21 as stage carriages on BaghpatLoni Ghaziabad route. Aggrieved the petitioners aforesaid filed this writ petition under Article 226 of the Constitution challenging the validity of the order of the Competent Authority.

DelhiSaharanpur route is a notified route covered by an approved scheme framed under Chapter IVA of the Motor Vehicles Act, 1939 A portion of LoniGhaziabad route viz., MohannagarGhaziabad is part of a notified route under the approved scheme for DelhiDehradun route. The rest of the route, viz., the area lying between Loni and Mohannagar, is not covered by any approved scheme. So far as Ghaziabad LoniBaghpat route is concerned the area lying between Bhaghpat and Loni forms part of a notified route under the approved scheme of

DelhiSaharanpur route. The area between Mohannagar and Ghaziabad is again a portion of the approved scheme but the area lying between Loni and Mohannagar does not form part of any notified route under any approved scheme. The petitioners contend that since the area lying between Mohannagar and Loni is not covered by any approved scheme the Competent Authority had no jurisdiction to authorise the minibuses of respondents 5 to 21 to ply as stagecarriages on the GhaziabadLoni route.

In order to appreciate the contention of the petitioners it is necessary to refer to the provisions of the U. P. Motor Vehicles (Special Provisions) Act, 1976, hereinafter referred to as the Act. SubSection (3) of Section 1 lays down that the Act shall apply only in relation to schemes approved or purporting to be approved areas and routes notified or purporting to be notified under Chapter IVA of the Motor Vehicles Act, 1939, and to permits issued under the principal Act before the commencement of this Act. The principal Act is the Motor Vehicles Act, 1939. Section 2 defines the expressions used in the Act. Clause (a) thereof defines "approved scheme" and "notified route" which have the same meanings as in Section 68D of the principal Act. Clause (e) of Section 2 defines "specified limits" which means such limits area or routes as may be specified by the State Government by notification. Section 3 confers power on the Government to constitute an authority to be called the "Competent Authority". Section 4 confers power on the Competent Authority to authorise the use of a minibus a stage carriage within specified limits covered by an approved scheme subject to such terms and conditions which may be in respect of matters specified in subsection (3) of Section 48 of the principal Act. These are the relevant provisions for the purposes of the present case. Section 4, in our opinion, confers power on the Competent Authority to authorise the use of a minibus as a stagecarriage. Normally a minibus is plied as a contract carriage under a permit issued under Chapter IV of the principal Act. Section 4 makes special provisions and confers power on the Competent Authority to authorise its use as stage carriage within "specified limits" covered by an approved scheme. The use of the expression "within specified limit covered by an approved scheme" is significant. "Specified limits" is defined by clause (e) to Section 2 which means "such limits, area or routes as may be specified by the State Government by notification." But in addition to the notification the area or the route over which the Competent Authority may authorise a minibus to ply must be covered by an approved scheme. "Approved scheme" under Chapter IVA of the principal Act means a scheme duly finalised and published in respect of an area or route under Section 68D of the principal Act. It is thus clear that the Competent Authority has jurisdiction to authorise the plying of a minibus as a stage carriage only in relation to an area or route covered by an approved scheme. In the instant case it was admitted during the course of arguments by the parties that portion of the route, viz., between Mohannagar and Loni, is not covered by any approved scheme. In our opinion, therefore, the Competent Authority had no jurisdiction to authorise the plying of the minibuses of respondents 5 to 21 as stagecarriages

on the portion of the route between Mohannagar and Loni.

Shri S. K. Dhaon, learned counsel for respondents, urged that GhaziabadMohannagarLoniKhekhraBaghpat route has been notified as "specified limits" under section 2(e) of the Act by a notification dated July 21, 1976, and as such the Competent Authority had jurisdiction to issue the authorisation. He further urged that unless that notification was quashed the petitioners are not entitled to any relief and since the petitioners have not challenged that notification no relief can be granted to them. It is true that the State Government in exercise of its powers under Section 2(e) of the Act declared GhaziabadMohannagarLoniKhekhraBaghpat route within "specified limits" but that by itself does not confer jurisdiction on the Competent Authority to authorise the mini buses to ply as stage carriages on that route. As already noticed under section 4 the Competent Authority has jurisdiction to issue authorisation on a route which is within the "specified limits" and further if it is covered by an "approved scheme." Both the conditions are required to be satisfied before a minibus can be authorised to ply as a stagecarriage on such a route. If any of the two conditions are not satisfied the Competent Authority has no jurisdiction to exercise powers under section 4(1) of the Act. In this view of the matter even if the government notification dated July 21, 1976, is not challenged relief can be granted to the petitioners.

In the result we allow the writ petition and quash the order of the Competent Authority authorising the plying of the minibuses of respondents 5 to 21 as stage carriages on the portion lying between Loni and Mohannagar. In the circumstances of the case the parties shall bear their own costs.