
(1967) 08 PAT CK 0005
In the Patna High Court
Case No : C.W.J.C. No. 604 of 1966

Jagatbandhu Sahni

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 17-08-1967

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1968) 16 BLJR 507

Hon'ble Judges : R.L. Narasimham, C.J;K.B.N. Singh, J

Bench : Division Bench

Judgement

R.L. Narasimham, C.J. and K.B.N. Singh, J.—This is an application under Articles 226 and 227 of the Constitution against the order of the Minister of Transport, dated the 30th August, 1966 (Annexure D), passed on a revision application u/s 64-A of the Motor Vehicles (Bihar Amendment) Act, 1939, made under the following circumstances.

2. For the route Dhanbad-Barmasia via Mahuda, an advertisement was made inviting applications for one permit. Several applications were received; but, at the time of the consideration of those applications, the Chotanagpur Regional Transport Authority (C.N.R.T.A.) Ranchi, decided that two permits should be granted. The route was an old one on which a large number of vehicles were plying. Having thus decided to grant two permits, the C.N.R.T.A., ultimately, decided to grant the permits to (1) the petitioner, Jagatbandhu Sahani, and (2) one Tara Prasad Sinha Choudhary on certain conditions. On appeal, the Appellate Board, by its order dated the 30th September, 1961 (Annexure B), held, following some Patna decisions, that the number of permits should be fixed before issuing the advertisement, and that, if the number is increased at the time of consideration, it will be open to attack on the ground that the R.T.A. wanted to accommodate more persons. The Board further observed that it was not satisfied with the reasons given for increasing the number of permits from one to two. Hence, the Board set aside the order of the C.N.R.T.A. granting

permits to the petitioner and to Tara Prasad Sinha Choudhary, and directed that "the R. T. A. should advertise these two vacancies afresh and invite applications from all persons and consider them on merits".

3. When the Minister heard the revision application u/s 64-A, he did not decide the question whether, when only one permit was advertised, the R.T.A. was justified in granting two permits. Without answering this question, (which is the most important question, on the basis of which the Appellate Board set aside the order of the R.T.A.), the learned Minister considered whether an experienced operator or a new comer should be preferred, and, ultimately, decided that one of the permits should be granted to Shri Ram Sundar Sah (opposite party No. 4). But his order is quite unsatisfactory. There is no direction as to what is to be done with regard to the other permit, which, according to the R.T.A., was considered to be necessary after the advertisement was made. There is no express order either quashing or modifying the order passed by the Appellate Board.

4. The Minister's order cannot be supported. He has failed to decide the first question involved in this case, viz., whether the R.T.A. had jurisdiction to grant two permits instead of one. He had also to decide the second question of jurisdiction as to whether, if two permits are granted when one was advertised, the Appellate Board or the Revisional Authority, viz., the Minister, could treat the original advertisement as valid so far as one permit was concerned, and grant the permit to the petitioner, who was, in their opinion, the most suitable person to receive the same, leaving it open to the R. T. A. to advertise for the second permit. These are important questions of jurisdiction which should have been decided first by the Minister before he entered into discussion about the relative merits of the applicants for one of the permits, and decided to grant it to Shri Ram Sunder Sah (opposite party No. 4).

5. The question is undoubtedly not free from difficulty. Reliance was placed on *Abdul Maleen v. Ram, Kailash Pandey* AIR 1963 S.C. 64 and also on *Mohammad Elias Vs. Ardhendu Mishra and Another*, and on some other decisions. We do not wish to say anything about this question of jurisdiction at this stage because it will have to be answered by the Minister in the first instance. It is sufficient for the disposal of this application to indicate that the main question of jurisdiction was not considered at all by the Minister exercising powers of revision.

6. For these reasons, we allow this application, quash the order of the Minister dated the 30th August, 1966 (Annexure D), and direct him to rehear the revision application and give his decisions on (1) whether, in the facts and circumstances of this case, the C.N.R.T.A. had jurisdiction to grant two permits when the original advertisement was for one permit only, and (2) assuming that the C.N.R.T.A. had no such jurisdiction to grant two permits, could the Appellate Authority or the Minister consider the applications and grant one permit to the most deserving applicant, leaving the grant, of the other permit to be considered on a fresh advertisement. He may then consider the relative merits of the rival

applicants, who are before him, and dispose of the revision according to law.

7. Mr. Bhattacharya, however, wanted some interim orders to be passed by this Court for maintenance of the status quo in the interests of public convenience till final decision is given by the Minister on the revision application. We, however, consider that the interim order, if any, should be passed by the Minister himself before whom the revision application stands restored.

8. There will be no order as to-costs.