

**(1967) 07 AP CK 0007**  
**In the Andhra Pradesh High Court**  
**Case No : Writ Appeal No. 14 of 1967**

J.C. Nagireddy

APPELLANT

Vs

P. Nagamma

RESPONDENT

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**Date of Decision :** 19-07-1967

**Acts Referred:**

Andhra Pradesh Motor Vehicles Rules, 1964 — Rule 212, 212(1)(2)  
Constitution of India, 1950 — Article 226  
Motor Vehicles Act, 1988 — Section 47(1)

**Citation :** AIR 1968 AP 298

**Hon'ble Judges :** Vaidya, J;Basi Reddy, J

**Bench :** Division Bench

**Advocate :** V. Venkataramana Reddy, for the Appellant; P. Babulu Reddy, for the Respondent

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## Judgement

Basi Reddy, J.—This appeal under clause 15 of the Letters Patent is directed against the order of Obul Reddi J., dated 3-11-1966 made in Writ Petition No, 1153 of 1965, whereby the learned Judge quashed the order of the Government of Andhra Pradesh in G.O. Ms. No. 1038 Home (Transport-III). Department, dated 21-5-1965 and gave a direction to the Government to dispose of the matter in the light of the observations made by him in his order.

2. The central issue in this writ appeal turns upon the true interpretation of certain provisions of Rule 153-D of the Madras Motor Vehicles Rules, 1940, as amended by G. O. Ms. No 2455, Home (Transport-I) dated 25-11-1960 Before dealing with this question, it is necessary to set out briefly the history of this case, which relates to the grant of a stage carriage permit

3. The Regional Transport Authority, Anantapur at its meeting held on 30-5-1963 considered the question of granting one stage carriage permit on the route Pulivendula to Anantapur. There were sixteen applicants including the appellant (Sri J.C. Nagireddy) and the respondent (Srimati P. Nagamma). After considering the relative merits of the rival claimants in the light of the Rules governing the

grant of stage carriage permits, the Regional Transport Authority granted the permit to the appellant, The decisive factor which weighed with the Regional Transport Authority in granting the permit to the appellant was that he has a full sector qualification whereas his nearest rival has only a partial sector qualification. The claim of the respondent was negated on the ground that she had been granted a permit in December, 1961 and the grant of another permit in May, 1963 was not justifiable. Against the order of the Regional Transport Authority three of the unsuccessful applicants including the respondent preferred appeals to the Appellate Authority. That authority at its meeting held on 9-10-1964 considered the appeals, set aside the grant made in favour of the appellant and granted the permit to the respondent. The main grounds which weighed with the Appellate Authority in granting the permit to the respondent were first, that it had been the practice to prefer fleet-owners for long distance routes and the route in question was a long route, the respondent held five permits and was a fleet-owner, whereas the appellant held only four permits in all--two permits in Anantapur District and two permits in Kurnool District, and secondly that the respondent's history-sheet was "comparatively clean." The Appellate Authority pointed out that the Regional Transport Authority was in error in holding that the grant of the present permit to the respondent would amount to granting permits in quick succession, having regard to the fact that she had been granted a permit as long ago as a year and a half.

4. It is material to note that before the Appellate Authority the respondent filed certified copies of the history-sheets of the appellant pertaining to the districts of Anantapur and Kurnool, in each of which the appellant held two stage carriage permits. On the basis of the relevant adverse entries --which it is stated before us, are two in the Anantapur history-sheet and seven in the Kurnool history-sheet -- it was contended before the Appellate Authority that the record of the appellant in Kurnool and Anantapur Districts as evidenced by the entries in the two history-sheets was very bad and that he should have been screened by the Regional Transport Authority under Rule 153-D of the Motor Vehicles Rules, 1940. It is to be noted that as regards this contention, the Appellate Authority merely observed: "Her history-sheet is also comparatively clean," meaning thereby that the history-sheet of the respondent was cleaner than that of the appellant. Evidently the Appellate Authority did not take into account the Kurnool history-sheet of the appellant. In the end the Appellate Authority . allowed the appeal preferred by the respondent, set aside the order of the Regional Transport Authority and granted the permit to the respondent.

5. Against the order of the Appellate Authority, the Appellant and two others preferred revision petitions to the Government. The Government in their turn reversed the order of the Appellate Authority and restored that of the Regional Transport Authority granting the permit to the appellant. The Government based their decision on the main ground that the Appellate Authority had taken an erroneous view that the route in question being a long route, a fleet-owner should be given preference over others. They pointed out that according to the

Rules, an applicant for a stage carriage permit on a long distance route is not entitled to preference on the ground that he holds five or more permits, but the correct view is that a new entrant, a small operator and a fleet-owner with five or more permits, all stand on the same footing. As regards the relative merits of the appellant and the respondent, the Government observed as follows:

"With regard to the relative claims of the petitioner Sri J.C. Nagireddy and the respondent Srimati P. Nagamma both are having identical qualifications with equally good history-sheets. Whereas Sri J.C. Nagireddy is having a full sector qualification and more experience in the transport field, Srimati P. Nagamma is having residential qualification with less experience. The reasons given by the Regional Transport Authority for granting the permit to Sri J. C. Nagireddy and rejecting the claims of Srimati P. Nagamma are not illegal or irregular. The claims of the respondent are not so superior so as to justify the setting aside the grant made by the Regional Transport authority and grant the permit to the respondent. The Government considered the orders of the Appellate Authority setting aside the orders of the Regional Transport Authority and granting the permit to the respondent are not proper and regular"

It will be observed that in stating that the appellant and the respondent had "equally good history-sheets." the Government too, like the Appellate Authority, appear to have ignored the Kurnool history-sheet of the appellant

6. Against the order of the Government, the respondent (Srimati P. Nagamma) preferred a writ petition to this Court and the Writ Petition No. 1153 of 1965 was heard by Obul Reddi. J. In the writ petition the most important ground taken by the respondent was that inasmuch as the history-sheets of the appellant (Sri J.C. Nagireddy) relating to the districts of Kurnool and Anantapur in which he was operating, disclosed that he had more than six punishments for offences of the nature specified in Rule 153-D, committed within a space of 24 months preceding the date of the grant of the permit, the appellant should have been screened and eliminated even at the threshold. The main contention on behalf of the respondent before Obul Reddi. J. was that she had obtained certified copies relating to the history-sheet of the appellant, that the certified copies had been filed at the appellate stage before the Appellate Authority, that the latter had taken into account the history-sheets of the appellant in addition to other factors and had set aside the order of the Regional Transport Authority and granted the permit to the respondent. It was further urged that the Government had ignored the history-sheets and had thereby committed an error apparent on the face of the record, Inasmuch as the certified copies show that the appellant had suffered disqualification under Rule 153-D of the Motor Vehicles Rules, as amended by G. O. Ms. No. 2455, Home (Transport-I) dated 25-11-1960. The learned Judge accepted the contention of the respondent and observed as follows:

"In fact in the representation made by the petitioner (Srimati P. Nagamma) before the Government she specifically referred to the mandatory provisions of Rule 153-D and contended that the 4th Respondent (Sri J.C. Nagireddy) should

have been screened at the outset, as during the preceding two years he had more than six adverse entries or punishments. The 4th Government pleader has admitted that the certified copies of the history-sheets were filed by the petitioner at the appellate stage and they were in the record at the time when the Government considered the revision petition of the 4th respondent. In spite of the fact that this question was raised by the petitioner before the revisional authority, the Government has not chosen to advert to this aspect of the case whether the 4th respondent suffered disqualification rendering himself liable to be screened at the initial stage itself under Rule 153-D. The Government, far from considering the specific issue or question raised by the petitioner, observed in its order:

" "Both are having identical qualifications with equally good history sheets" ".

The learned Judge then proceeded to point out that it is the duty of the Regional Transport Authority in the first instance to look into the history-sheet of an applicant to ascertain whether he deserves to be screened or not. If that Authority fails to do so, it is the duty of the Appellate Authority to satisfy itself in that regard. In this particular case, although the respondent had raised the question that the appellant had incurred disqualification under Rule 153-D, before the Appellate Authority and also before the Revisional Authority and had filed certified copies of the history-sheets of the appellant, neither the Appellate Authority nor the Revisional Authority had considered this aspect of the matter. The learned judge, therefore, held that the procedure adopted by the Revisional Authority in completely ignoring the point specifically raised by the respondent viz., that the appellant had suffered disqualification under Rule 153-D of the Act, is "certainly an error of law which is apparent on the face of the record and can certainly be corrected by the issue of a writ of certiorari." He accordingly quashed the order of the Government and remitted the matter to the Government.

7. It appears from the learned Judges order that the learned Advocate for the Appellant contended before him that under Rule 153-D the history-sheet of the appellant relating to Anantapur District alone should be taken into consideration and the history-sheet pertaining to the Kurnool District should not be taken into account at the appellant's Kurnool history-sheet would not be germane to the grant of a stage carriage permit in Anantpur District. The learned Judge disposed of that contention in the following words:

"This question was not raised by the 4th Respondent either before the Appellate Authority or before the Revisional Authority."

8. It seems to us, however, that really the learned Judge was not prepared to accept the contention advanced on behalf of the appellant that the history-sheet pertaining to Kurnool District was not relevant for the purpose of the grant of a stage carriage permit by the Regional Transport Authority of Anantpur, although the learned Judge does not expressly say so. Otherwise there was scarcely any

justification for interfering with the order of the Government on any other ground. Apparently the view of the learned Judge is that under Rule 153-D for the purpose of granting a permit to an applicant, all his history-sheets in whichever District they are maintained, must be looked into to ascertain if the applicant has more than six entries relating to offences for overload, over speed or running without a permit or a fitness certificate, committed within the preceding two years.

9. In this writ appeal which is directed against the order of the learned judge the learned Advocate for the appellant (Sri J.C. Nagireddy) raised two contentions: first, that on a true construction of R. 153-D, only the history-sheet maintained by the Regional Transport Authority of the particular District to which the proposed grant relates, is material, and the history-sheet of that operator maintained by the Regional Transport Authority of another District in respect of offences committed in that region, cannot be taken into account: and secondly, that in the present case the order of the Government does not suffer from any error of law apparent on the face of the record in that, whether or not the history-sheet of an applicant contains more than six adverse entries, is a question of fact which cannot be canvassed in a writ proceeding.

10. So the principal question for determination in the writ appeal is: What is the true construction of Rule 153-D? This Rule which has since been replaced by and reproduced in Rule 212 of the Andhra Pradesh Motor Vehicles Rules. 1964, prescribes the procedure and lays down the principles governing the grant of stage carriage permits by the Transport Authorities constituted under the Motor Vehicles Act The Rule, so far as is material for the present purpose, runs as follows.

"The Transport Authorities shall, in deciding whether to grant or refuse a stage carriage permit, have regard to the following matters:

Applicants shall be screened and disqualified on one or more of the following principles:

(1) Financial instability as evidenced by Insolvency or undischarged decrees or failure to produce an Income Tax clearance certificate:

Provided that the purchase of a vehicle by money borrowed or under a hire-purchasing agreement shall not be a disqualification by itself.

(2) If the history-sheet is not clean and contains more than six entries relating to without for overload, over speed or running without a permit or fitness certificate committed within 24 months preceding the date of grant.

(3) If there is evidence that the applicant has been trafficking in permits, either benami or otherwise

(4) If the applicant has no workshop facilities or other arrangements to attend to repairs efficiently:

Provided that a new entrant shall not be disqualified on this ground if he gave an undertaking, in writing to make the necessary arrangements within a reasonable period.

X X X X X

(5) If the applicant has no main office or branch office on the route or resides beyond five miles from the route applied for to control the service.

(6) If the application is on behalf of others in order to evade rules."

Then the Rule goes on to say that after eliminating the applicants in the manner laid down above, marks shall be assigned for assessing the various qualifications of the applicants with reference to sector or residential qualification, business or technical experience in motor transport and special circumstances in which the applicants are placed,

11. Thereafter the Rule provides that applications finalised on the basis of the marking system, shall be disposed of according to Section 47(1) of the Motor Vehicles Act, which lays down certain guidelines in the larger interest of the public in the matter of granting permits.

12. It will thus be observed that the first step in the process of granting a stage carriage permit is the elimination of such of those applicants as have incurred one or other of the disqualifications enumerated in the Rule, by a process of screening. The rule enjoins inter alia that if the history-sheet of a given applicant contains more than six entries relating to offences of overload, over speed or running without a permit or fitness certificate committed within the preceding 24 months, that applicant shall be screened and disqualified. It is only after an applicant crosses this barrier that his case will be considered along with the case of similar applicants by resorting to the marking system. If the first hurdle is not crossed, the applicant is automatically eliminated and no question of further consideration of his application, would arise.

13. So the crucial question that falls for "determination in this writ appeal in What does the expression "history-sheet" mean? Does it mean only the history-sheet of the applicant relating to the particular district in which the question of granting the stage carriage permit is being considered by the concerned Regional Transport Authority, or does it include all the history-sheets pertaining to that operator, whether they are maintained in one or more districts? It is to be mentioned that in the instant case, if the history-sheet of the appellant pertaining to Anantapur district alone is taken into consideration, he would not be liable to be screened, because the material entries in that history-sheet are admittedly less than six, although there is some dispute as to the exact number. On the contrary, if the history-sheet of the appellant pertaining to Kurnool district also is taken into account along with the history-sheet of Anantapur district, then it would seem that the appellant would have incurred disqualification, as the total number of adverse entries would exceed six. Here again we must point out that

this fact is not conceded before us by the learned Advocate for the appellant, but there it prima facie material, which may be gathered from the certified copies of the history-sheets filed by the respondent before the Appellate Authority, that subject to the entries in the Kurnool history-sheet being explained away, the total number of entries in the two history-sheets would exceed six and would attract the mischief of the disqualifying clause in Rule 153-D

14. It was however, strenuously contended on behalf of the appellant, placing reliance on the fact that the singular number "history-sheet" is used in the Rule and not the plural "history-sheets" that the Rule contemplates only the history-sheet maintained by the Regional Transport Authority of the particular district where the application is being considered. On the other hand, it was argued on behalf of the respondent that there is no justification for reading the Rule in that restricted manner and the term "history-sheet" includes all the history-sheets of the applicant

15. We are clearly of the view that the contention put forward on behalf of the appellant is untenable. The object of the Rule is to refuse permits to persons with black records in the transport service because it would not be in the public interest to grant permits to such persons. The suitability of a particular applicant for the grant of a permit cannot be properly and adequately assessed by looking at his record in one Particular district and ignoring his record in other districts within the State wherein he holds permits. If the purpose of the Rule is to safeguard the interests of the public by eliminating inefficient or dishonest operators, what valid reason is there for ignoring the performance of that operator in other district within the State? In our opinion, the Transport Authorities should not confine themselves to the record of the applicant in one particular district, but they should take into account the whole area of his operation within the State as a provider of passenger transport service. The argument based on grammar lacks substance for the simple reason that it is a well-established rule of statutory construction that unless the contrary intention appears, the singular includes the plural, and the plural the singular. In our view, the term "history-sheet" occurring in the relevant clause of Rule 153-D means all the history-sheets of the applicant and not merely a single history-sheet. To construe the clause in the manner suggested by the appellant, would defeat the very object of the Rule. What the clause contemplates is that the aggregate of the relevant entries in all the history-sheets pertaining to the particular applicant should be taken into account in deciding whether or not he should be screened and disqualified. It would be unrealistic in the extreme to look into one history-sheet and turn a blind eye to the other history-sheets of the same operator in other regions. The suitability of a person for rendering transport service cannot be gauged by assessing his performance compartmentally in the manner suggested by the appellant. Such procedure would not subserve public interest.

16. The other clauses of Rule 153-D throw considerable light on this problem and point to the conclusion that the rule-making authority had in mind the past

record of the applicant in its entirety wherever he might be operating passenger transport service. We need only refer to clause (3), which lays down that an applicant shall be screened if there is evidence that he has been trafficking in permits either benami or otherwise. Can it be possibly contended that the Transport Authority should confine its attention to a particular district and ignore the evidence, if any, that the applicant has been trafficking in permits in other districts? Therefore, viewed from any angle, the conclusion is inescapable that under the relevant clause of Rule 153D the Transport Authority, in considering the question of the grant of a stage carriage permit, should have regard not only to the single history-sheet of an applicant pertaining to a particular district, but to all his history-sheets maintained in all the district in which he is operating. That, in our opinion, is the true construction of the clause in question.

17. Our attention was drawn by the learned Advocate for the Respondent to a decision of a Division Bench of this Court composed of Jaganmohan Reddy, C.J. and Obul Reddi J. in Writ Appeals Nos. 127 and 139 of 1966 (reported in *Nagabhushanam Vs. Ankam Ankaiah and Others*, ), as throwing some light on the question before us. One of the questions that fell for determination in those writ appeals was whether, while considering an application for the grant of a stage carriage permit, the concerned Transport Authority should or should not take into account the history-sheet of the applicant with regard to public carrier service which also he was operating, and whether on a proper construction of Rule 212 (1) (iii) (2) of the Andhra Pradesh Motor Vehicles Rules, 1964, the history-sheet referred to therein, is history-sheet pertaining to stage carriage service only. The learned Judges gave a broad meaning to the term "history-sheet" occurring in that Rule and held that it referred to both types of service rendered by the applicant. The learned Judges answered the question thus:

"What has to be assessed of an applicant is his suitability and fitness for the grant of a permit and for that the authorities have to look into the applicant's past and it is not possible to dissect or bisect his history-sheet relating to the transport vehicles into separate categories. That would be defeating the very object of maintaining history sheet for the purpose of ascertaining the suitability or otherwise of an applicant. In our view the whole train of events connected with the experience in the running of motor vehicles whether stage carriages or public carriers has to be taken into consideration. It is his past record or history as a whole that would render him fit or suitable and the history sheet is expected to serve the interest of the public generally.""

18. We are in respectful agreement with the above reasoning of the learned Judges, and it will be noticed that it accords with our view, although the learned Judges were dealing with the history-sheet of an operator with regard to different kinds of transport service, while in the present case we are concerned with the history-sheets of an operator in respect of the same kind of service but in two different regions. The underlying principle, however, is the same

19. The next contention of the learned Advocate for the appellant was that since

the impugned order of the Government is based on an appreciation of evidence and there is no error of law apparent on the face of the record, the learned Judge was in error in quashing the order of the Government by means of a writ of certiorari. In support of this contention the learned Advocate placed strong reliance on a judgment of the Supreme Court in *Syed Yakoob Vs. K.S. Radhakrishnan and Others*, . But that decision far from supporting his contention, is really against it. While pointing out that the jurisdiction of the High Court under Article 226 of the Constitution to issue a writ of certiorari is a supervisory and not an appellate jurisdiction and consequently findings of fact reached by the inferior Court or Tribunal as a result of appreciation of evidence cannot be re-opened and questioned in writ proceedings their Lordships nevertheless made it clear that an error of law which is apparent on the face of the record can be corrected by a writ. Their Lordships made the following observation at page 480 of the report, which is material for the present purpose.

"Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious misinterpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari .....If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened."

20. Applying the above test, it is evident that all the Authorities below have manifestly misconstrued Rule 153-D and proceeded on the footing that in considering the question whether an applicant is liable to be screened or not on the basis of adverse entries contained in his history-sheet, it is not permissible to travel beyond the history-sheet pertaining to the region in which the application is made and that the history-sheets of the applicant relating to the other regions are not relevant for that purpose. It is this wrong view of the relevant statutory rule in its application to the facts of the instant case, that has vitiated the order of the Government. That being so the learned single Judge was justified in quashing that order by certiorari.

21. Having quashed the order of the Government, the learned Judge remanded the matter to the Government for reconsideration. In our opinion, since this erroneous view of the law has vitiated not only the order of the Government but also the order of the Appellate Authority, the learned Judge should have quashed that order as well and should have remitted the matter to the Appellate Authority.

for proper disposal. It is true that the same error has crept into the order of the Regional Transport Authority also: but the evidence relating to the history-sheet of the appellant pertaining to Kurnool district in the shape of a certified copy of that history-sheet, was not placed by the respondent before the Regional Transport Authority, and presumably the Kurnool history-sheet of the appellant was not before that Authority. However a certified copy of that history-sheet was filed before the Appellate Authority. It was therefore, incumbent upon the Appellate Authority to have considered the effect of that history-sheet after giving the other side an opportunity of meeting it. The Kurnool history-sheet might furnish material which would warrant the setting aside of the order of the Regional Transport Authority, if the combined effect of the two history-sheets is that the appellant had suffered more than six punishments of the kind contemplated by the Rule

22. For the foregoing reasons, while affirming the order of Obul Reddi J. to the extent that it quashes the revisional order of the Government, we would also quash the order of the Appellate Authority and remit the matter to that Authority with a direction to re-hear the appeal preferred by the respondent (Srimati P. Nagamma) and dispose of it in the light of this Judgment. The appeal of Srimati P. Nagamma alone shall be heard and not the appeals preferred by others.

23. In the result, the writ appeal is allowed to the extent indicated above, but there will be no order as to costs.