

(1956) 10 RAJ CK 0013
In the Rajasthan High Court
Case No : Civil Writ No. 33 of 1956

J.G. Singh Transport, Shahpura

APPELLANT

Vs

State Transport Authority and Others

RESPONDENT

Date of Decision : 15-10-1956

Acts Referred:

Motor Vehicles Act, 1939 — Section 48, 64

Citation : AIR 1957 Raj 99 : (1957) RLW 154

Hon'ble Judges : K.N. Wanchoo, C.J;D.S. Dave, J

Bench : Division Bench

Advocate : Noratanmal, for the Appellant; R.L. Purohit, for the Respondent

Final Decision : Dismissed

Judgement

Dave, J.—This is a writ application under Articles 226 and 227 of the Constitution of India in a matter arising under the Indian Motor Vehicles Act.

2. The facts leading to this application, which are not in dispute between the parties, are as follows:--

3. In the States of Rajasthan and Ajmer, there is an inter-State route about 34 miles in length and it is known as Shahpura-Kekri route. It passes via Matajika-Khera and Kadera. According to a reciprocal transport arrangement between these two States one bus from the State of Rajasthan is permitted on this route. The Regional Transport Authority, Udaipur invited applications for the grant of stage carriage permit on this route, Thereupon, the petitioner Messrs. J. G. Singh Transport Shahpura and ten others applied for the grant "of a permit. On 18th of March 1955, the Regional Transport Authority rejected all other applications except that of the petitioner. It was ordered that he be granted a permit to ply one bus on the said route for three years from the date of issue. Thereafter three applicants, who were not granted permits, "namely Messrs. Rajasthan Motors Bhim, Sri Mangilal, Kishangarh and Sri Bulchand Thanwardas Shahpura, who are respondents Nos. 3, 4 and 5 in this Court filed appeals before the Appellate

Authority. The Appellate Authority allowed all the three appeals of the three respondents and they were permitted to ply one bus of a model not earlier than of 1954. It was further ordered that all the operators including present petitioner would ply their buses in rotation as per timings to be fixed by the Regional Transport Authority and subject to counter-signature on the permit by the Ajmer authorities. It is this order dated the 23rd December 1955 whose validity is assailed by the petitioner before us.

4. It is urged by the petitioner that according to reciprocal arrangement between the State of Rajasthan and the State of Ajmer, only one bus was to be permitted on the said route from Rajasthan side, that by its resolution No. 16 (iii) the Regional Transport Authority, Udaipur had limited the number of permits to be granted on this route u/s 48(1) of the Motor Vehicles Act to one, that the Appellate Authority had no jurisdiction to increase the number of permits and, therefore, its order dated the 23rd of December 1955 is illegal. It is pointed out by the petitioner that after the resolution of the Regional Transport Authority he had started plying his bus No. RJE 347 in the month of June 1958 after obtaining counter-signature of the authority in Ajmer State, find counter signature on the petitioner's permit was again due on 20th of January 1956. When he approached the State Transport Authority in January 1956, it refused to countersign his permit because in pursuance of the impugned order of the Appellate Authority, Messrs. Rajasthan Motors Bhim, respondent No. 3 had already got its permit countersigned by the authority in Ajmer. This fact is borne out from a copy of a letter No. C. 8/56 dated 30th of January 1956 from the Secretary, State Transport Authority to the Secretary Regional Transport Authority, Udaipur, marked Ex. 4. The petitioner's complaint, therefore, is that his bus is lying idle. It is prayed by him that the order of the Appellate Authority dated 23rd December 1955, being illegal, should be quashed and that respondents Nos. 1 and 2 should be directed to forbear from executing that order and granting permits to respondents Nos. 3, 4 and 5.

5. It is only respondent No. 5 Bulchand who has presented a written reply in this case. It is urged by him that the Regional Transport Authority, Udaipur, did not purport by its resolution No. 16 dated 18th of March 1955 to limit the number of buses to ply over the said route to one. It had no doubt granted only one permit because other applications were rejected, but it did not mean that it had fixed the limit to one only. It is further stated that although by a reciprocal arrangement between the two States only one bus is to run from either side, the authorities in Rajasthan could give more than one permit and such permit holders could ply their buses in rotation as directed by the Appellate Authority. Lastly, it is urged that the State Transport Authority had jurisdiction to increase the number of permits and the petitioner's contention that Section 64 (f) was not mentioned in the appeal had not bearing on the subject. Thus the two points which arise for determination by this court are as follows:--

(1) Whether the Regional Transport Authority had limited the number of permits

to one for Shahpura-Kekari route.

(2) Whether an appeal u/s 64 (a) of the Indian Motor Vehicles Act, the Appellate Authority can increase the number of permits limited by the Regional Transport Authority u/s 48 of the same Act.

6. So far as the first point is concerned, it is common ground between the parties that according to the reciprocal arrangements between the State of Rajasthan and the State of Ajmer, only one bus was to be permitted on the Shahpura-Kekari route from the State of Rajasthan. The contention of respondent No. 5 is that although only one bus from Rajasthan State could run on the said route in pursuance of the agreement between the two States, the Rajasthan State could grant permits to more than one person and direct them to ply their buses in rotation. According to the respondent, the Regional Transport Authority had not limited the number to one u/s 48. We have given due consideration to this contention, but in our opinion, it is not tenable.

It is true that the Regional Transport Authority had not specifically referred to Section 48 but the language of its resolution dated the 18th of March 1955 (Ex. 1) leaves no doubt that it had limited the number of permits to only one and it was on that ground that it granted permit only to the petitioner and rejected all other applications. The Regional Transport Authority could limit the number of permits only u/s 48 and, therefore, it should be deemed that even though it did not make specific reference to that section, it had exercised its powers thereunder. There is therefore no force in this contention and It is fit to be dismissed.

7. We have next to determine whether the Appellate Authority could increase the number of permits limited by the Regional Transport Authority in an appeal u/s 64 Clause (a) of the Indian Motor Vehicles Act. Learned counsel for the petitioner has urged that the Indian Motor Vehicles Act has given the power of limiting the number of stage carriages for which permits may be granted in the region only to the Regional Transport Authority u/s 48 and that there is no corresponding section in the Act which empowers the Appellate Authority to interfere with such a decision. According to learned counsel, the Appellate Authority can u/s 64 (a) grant a permit in appeal only if the grant of such permit does not exceed the limit fixed u/s 48 by the Regional Transport Authority.

Learned counsel has not referred to any direct authority in support of his contention. On the other hand we find that a contrary view was taken in the case of Dholpur Co-operative Transport & Multi-Purpose Union Ltd. v. Appellate Authority Rajasthan ILR (1953) Raj 931: AIR 1855 Raj 19. In that case, the Regional Transport Authority had granted two permits to Dholpur Co-operative Transport and Multi-purpose Union Ltd. and rejected the applications of two persons, namely Sathnarainsingh and Khajan-singh. On appeal by Sathnarainsingh and Khajan-Singh, the Appellate Authority granted them permits and cancelled the permit of the Dholpur Co-operative Transport and Multi

Purpose Union Ltd. On a writ application being filed by the said Company, it was held that

"where an appeal has been made under clause (a) against the refusal of a permit the Appellate Authority will generally have the right to give relief to the appellant by grant of a permit, but will not have any jurisdiction to cancel the permit granted to another person, unless a foundation has been laid before the Regional Transport Authority for an appeal provided by Clause (f) by an objection by somebody entitled to appeal under that clause."

It was further held that "The appellate authority could grant relief to the appellants before it by giving them permits, but could not cancel permits granted to others." It was also a case in which the number of permits was fixed on an interstatal route between Dholpur and Agra. Thus according to the view taken in the above case, although an Appellate Authority could not in an appeal u/s 64 (a) cancel the permit granted to other persons unless a foundation was laid before the Transport Authority for an appeal provided by Clause (f) still the Appellate Authority could, if it so desired, give relief to the appellants by granting more permits. We have again considered this view and we think that there is no reason to change it. Section 64(a) provides that any person aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him, may, within the prescribed time, appeal to the prescribed authority. It is clear "that when the law has provided that any person aggrieved by the refusal of the Regional Transport Authority to grant a permit can appeal to the prescribed authority it follows that the Appellate Authority is authorised to grant him a permit if the refusal-has been made on a wrong ground.

Now there can be a case in which a Regional Transport Authority may refuse to grant a permit by wrongly limiting the number of permits in a certain case. For instance, there may be two or three persons plying their buses on a certain route for some years. If in such a case, a Regional Transport Authority, after the expiry of the period of their permits limits the number of stage carriages for which permits are to be granted to only one, and if for that reason, the other two persons who were plying their buses on that route are not granted permits and if they are aggrieved by the refusal of the Regional Transport Authority to grant them permits on the ground that it had limited the number to one, can it be urged that such persons have no remedy by way of appeal u/s G4 (a) ? In our opinion the case of such persons would be covered by Section 64 (a) because they would be aggrieved by the refusal of Regional Transport Authority to grant a permit and the Appellate Authority would, therefore be able to gave them relief by granting more permits and increasing the number fixed by the Regional Transport Authority, if the Appellate Authority thinks that the Regional Transport Authority has limited the number without good reasons. It may be pointed that the language of Section 64 (a) is quite wide in its scope. It does not place any limitation to the effect that a refusal to grant a permit on a particular ground or

grounds only is appealable. It permits everybody who is aggrieved by the refusal of the State or " the Regional Transport Authority to grant a permit to file an appeal whatever the ground of the refusal to grant a permit may be.

8. Similarly Section 64 (1) allows that any person aggrieved by any condition attached to a permit granted to him may file an appeal. The conditions attached to a permit also refer to certain conditions which may be attached by the Regional Transport Authority u/s 48 clause (d). This shows that Section 64 is not absolutely controlled by Section 48 of the Act. Of course, every order passed by the Regional Transport Authority u/s 48 for instance an order made under Clause (c) is not appealable u/s 64. Even an order u/s 48 (a) limiting the number of permits would not be appealable by everybody unless he is a person aggrieved by the refusal of a permit to him. But if the Regional Transport Authority arbitrarily limits the number of stage carriages for which permits are to be granted and if any person is aggrieved by the refusal of that authority to grant him a permit, his case would in our opinion be covered by Section 64 (a) and the Appellate Authority would be able to give him adequate relief. In other words, it cannot be said that the Appellate Authority would be helpless in every case when the number of permits is limited by the Regional Transport Authority.

It may be however be observed at the same time that the Appellate Authority also should while increasing the number of permits take into consideration all those factors which the Regional Transport Authority is required to consider by the law. In other words, the Appellate Authority also should not proceed arbitrarily. We should not be understood to mean that in the present case we approve of the Appellate Authority's order in giving permits to all the respondents. We cannot go into the merits of the order in this writ application and therefore we do not express any opinion on that point.

We have only to see if the Appellate Authority had the jurisdiction to hear and decide the appeal which was before it. Our conclusion is that it had such jurisdiction because the appeals were filed by persons aggrieved by the refusal of permits. We are therefore of opinion that the Appellate Authority had the jurisdiction to increase the number of permits and the petitioner's contention challenging its authority is not correct.

9. The writ application is therefore dismissed, but in the circumstances of this case, we order the parties to bear their own costs.