

(1998) 11 KAR CK 0001

In the Karnataka High Court

Case No : Writ Petition No"s. 33615 to 33619 of 1998

K. Anantharaju

APPELLANT

Vs

The Regional Transport Authority, Bangalore Central and
Others

RESPONDENT

Date of Decision : 11-11-1998

Acts Referred:

Citation : (1999) ILR (Kar) 389 : (1999) 5 KarLJ 343

Hon'ble Judges : S.R. Venkatesha Murthy, J

Bench : Single Bench

Advocate : Sri M.R.V. Achar, for the Appellant; Sri R.K. Hatti, High Court Government Pleader, Sri C.S. Shanthamallappa and Sri C. Narasimhachar, for the Respondent

Judgement

1. Power is filed for all the respondents.

2. The grievance of the petitioner in these cases is that though this Court directed that a route survey be conducted within 4 months in respect of Writ Petition No. 9012 of 1998 and connected cases, nothing is done, while fresh matters "are being listed for disposal even without compliance with the directions in Karnataka State Road Transport Corporation Vs. Sri. Pauli Govis and another etc., , regarding a route survey. Respondents 3 to 7 are seeking permits on a route which is common to the petitioner and the route according to the petitioner is a notified route to a distance of nearly 80 kms. and the applications are, apparently, in contravention of the Kolar Pocket Scheme and therefore, it is necessary to issue a writ of prohibition or any other writ, direction or order not to consider the applications of the respondents at the meeting to be held on 11-11-1998 or at any subsequent meetings and grant permits in favour of the applicants and for such other orders.

3. The allegations made in the petition would show that prima facie the route applied overlaps a notified route. It is well established authority that in respect of routes which are overlapping notified routes, the RTA or STA does not get

jurisdiction to consider such applications unless the scheme provides for a operation by private operators. In *Karnataka State Road Transport Corporation, Bangalore Vs. Karnataka State Transport Authority, Bangalore and Another*, and *R. Venkatesham Chetty v State of Karnataka*, this Court examined the procedural requirement in situations where notified routes were involved and it has been held that so far as notified routes are concerned, the State Transport Undertaking should have prior notice of the application for grant of the permit and should have an opportunity of contesting the claim by filing objections to the application. It has to be emphasized that a mere notice of meeting would not suffice and the State Transport Undertaking is entitled to a copy of the application for permit from the RTA concerned and only thereafter the matter should be listed for disposal, after allowing an opportunity to the State Transport Undertaking to file its written objections. In the instant case, the agenda does not indicate that the K.S.R.T.C. has been notified of the applications filed by the various applicants. The proceedings at Annexure-A are therefore in contravention of the decision of this Court in *R. Venkatesham Chetty's case*, supra.

4. On behalf of respondents 1 and 2, a memo is filed that in respect of W.P. Nos. 9001 to 9006 of 1998 and W.P. Nos. 11196 and 11197 of 1998 a route survey would be conducted within four weeks and thereafter the matter would be placed before the RTA for its decision. The respondents 1 and 2 also undertake that the meetings of the RTA would be held regularly once in two months; that agenda would be notified 7 days before the meeting of the RTA and that the applications would be listed in their chronological order.

5. It is clarified that the authority shall have to secure a route survey report after notice to the applicant and the State Transport Undertaking or its representatives. Having regard to the fact that grant of permits are not need based, it would be unnecessary for the authorities to examine need at the time of route survey and the route survey should be confined to overlap on notified route, if any. Conduct of route survey being a ministerial act, the R.T.O., should have to notice the overlap, if any, on the notified route, by noting the length of the route lying within cities, town or villages, and the location of the entry and exit points in such places, whether such overlaps constitute intersection or not is matter for adjudication by the RTA or STA, as the case may be. It is made clear that wherever common routes are involved the applications could be consolidated and common route survey conducted.

6. It is a matter of fairness to all applicants for grant of permits or variation of condition of permits, that applications should be listed in the chronological order in which they are made after compliance with the requirement of route survey for verification of overlap on notified routes. Applications for reliefs other than grant or variation of conditions of permits, involving variation, curtailment, extension of the route could be dealt with and disposed of according to the exigencies of the situation. Picking and choosing applications haphazardly for consideration before the STA or RTA, would give room for suspicion about the

conduct of their business. There would be no urgency in matters relating to grant of permits or variations of permits, which would compel the STA or RTA to take applications for such relief, out of turn.

7. The other grievance raised was that the RTA is not holding its meetings in accordance with the rules namely at least once in two months to dispose of applications for permits. The respondents 1 and 2 have undertaken that they would go by the rule and hold the meetings at least once in two months. All these submissions of respondents 1 and 2 are recorded and it is ordered that the future proceedings of the authorities should be in accordance with the undertaking given.

8. In order to enable the respondents 1 and 2 to comply with the undertaking given by them, it is ordered that with effect from February 1999 regular meetings of the RTA shall be held once in two months and the interregnum shall be utilised by respondents 1 and 2 to conform to the requirements of route survey in respect of all the applications that are pending before it.

9. It is also submitted on behalf of respondents 1 and 2 that meeting to be held today i.e., 11-11-1998 has been postponed. The submission is recorded. Henceforth, the respondents 1 and 2 shall comply with the undertaking given by them and the directions given herein to ensure that there is no complaint of discriminatory and arbitrary posting of matters before the authorities empowered to grant permits or variation of conditions of permits.

10. It is alleged that in most of the RTAs and STA, the position is no different. Without regard to the complaint voiced, it is necessary that the other RTAs and STA should follow the directions given in the case to ensure that there is fairness to all applicants for grant of permits or variations of the condition of permits.

11. In terms of this order, the writ petitions are allowed.

12. A copy of this order shall be communicated to the Transport Commissioner in Karnataka to secure compliance with this order by the STA and RTAs within the State of Karnataka.