
(1988) 08 KAR CK 0050
In the Karnataka High Court
Case No : W.P. No. 11804/1988

K. Subramanya Bhat

APPELLANT

Vs

Regional Transport Authority, Bangalore and Another

RESPONDENT

Date of Decision : 11-08-1988

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka Motor Vehicles Rules, 1963 — Rule 92(2)

Citation : (1988) 3 KarLJ 526

Hon'ble Judges : H. G. Balakrishna, J

Judgement

Balakrishna, J.-Sri P.R. Ramesh, learned High Court Government Pleader, is directed to take notice for the respondents.

2. An unemployed person holding a driving licence, purchased an Autorickshaw used for the purpose of carriage of goods, bearing Registration No. CNO 8055. The purchase was made with the funds provided by the Syndicate Bank. For two months he drove the Autorickshaw as a goods carriage and found that such a business was not profitable. Therefore, he sought and obtained permission for conversion of the goods carriage Autorickshaw into an Autorickshaw for carrying passengers with a seating capacity of 3+1. This person is the petitioner before Court.

3. On 8-2-1988, the petitioner made an application, vide Annexure-A, for issue of a permit to run the Autorickshaw as a passenger carrier. Ever since the application was filed, the impression gathered is that it is lying in cold storage with respondent-2.

4. Whatever may be the circumstances relating to conditions contained in the notification dated 11-11-1987, respondent-2 cannot convert it into a pretext for delaying the disposal of the application of the petitioner. The inference to that effect can be reasonably drawn on the basis of the delay of nearly six months in disposing of the application from the date it was filed before respondent-2. This application was taken up for consideration on 26-5-1988 by respondent-1. It is

on this score, the learned Government Pleader appearing for the respondents submitted that there is no unreasonable delay in the disposal of the application. When the application was made as far back as 8-2-1988, there is no reason why it could not have been taken up for consideration much earlier than 26-5-1988 and disposed of. It was again submitted by the learned Government Pleader that, in fact, the application was considered earlier on 27-3-1988. But no decision was taken and again it was taken up for consideration on 26-5-1988. What respondent-2 did was that he placed the application by taking a decision on 27-3-1988 before respondent-1 for consideration and disposal. But on 26-5-1988, respondent-1 the Regional Transport Authority reserved for orders on the petitioner's application. Thereafter, the petitioner was expecting that his application would be disposed of expeditiously. However, on perceiving that there was no sign of disposal particularly in the light of the notification dated 11-11-1987 under which several conditions were stipulated and to which the petitioner was not amenable, the petitioner decided to approach this court for relief.

5. It is contended by the petitioner that there is no bonafides in the action of respondents in referring the application to respondent-1 for disposal and that it was unnecessary since respondent-2 himself is invested with the power of disposal.

6. The point for consideration is whether there is sufficient ground for issuing a direction to the authority to consider and dispose of the application of the petitioner without further delay.

7. The contention of the petitioner that respondent-2 himself is empowered to consider and dispose of the application of the petitioner for grant of permit is misconceived. If, according to the notification, the petitioner is willing to conform to the conditions prescribed thereunder, only then respondent-2 has the jurisdiction to consider and dispose of the application by himself without reference to respondent-1. Since the petitioner has chosen not to submit to the conditions and desires to be considered independently of the conditions, I think the learned Government Pleader is correct in submitting that it is only respondent-1 which is competent to consider the application and pass orders.

8. Though in one of the writ petitions W.P.No. 17580/87 this Court had struck the conditions under the said notification, subsequently in a similar writ petition this Court took a different view in the light of the fact that a decision of the Supreme Court was not brought to the notice of the Court when the earlier writ petition was disposed of, and therefore the decision relied upon by the learned Counsel for the petitioner cannot be applied to the facts of this case.

9. However, bearing in mind considerations of equity and the rule of fairness, I think it is necessary in the facts and circumstances of this case to issue an appropriate direction to the respondents for a speedy disposal of the application of the petitioner irrespective of the question whether the petitioner is willing to

abide by the conditions set out in the said notification or not.

10. It should not be forgotten that "a judgment is not a product of cold facts, remorseless logic and pityless conclusions". What is needed is a just and humane consideration which the circumstances and facts of each case warrant. In this case, the petitioner is an unemployed youth who found after investment of available borrowed funds that Autorickshaw running as a goods carrier is not profitable was driven to the necessity of converting the goods Autorickshaw into a passenger carrier with the hope of securing a permit to run the same little realising that it would take several months for him to achieve his ambition. It is, in these circumstances, that I deem it necessary to issue a direction as follows:

Respondent-1 is directed to dispose of the application of the petitioner for grant of permit in respect of Autorickshaw bearing Registration No. CNO 8055 within fifteen days from the date of receipt of this order by acting under sub-rule (2) of Rule 92 of the Karnataka Motor Vehicles Rules, 1963.

11. With the above direction, this writ petition is disposed of.

12. Sri P.R. Ramesh, H.C.G.P., is permitted to file his memo of appearance for the respondents within two weeks from today.