

(1962) 11 KAR CK 0014
In the Karnataka High Court
Case No : Writ Petition No. 569 of 1961

K. Venkannachar

APPELLANT

Vs

Secretary, Regional Transport Authority and Another

RESPONDENT

Date of Decision : 03-11-1962

Acts Referred:

Motor Vehicles Act, 1939 — Section 58
Mysore Motor Vehicles and Road Traffic Rules, 1957 — Rule 127, 144

Citation : AIR 1963 Kar 207 : AIR 1962 Kar 207 : (1963) ILR (Kar) 99 : (1963) 1 MysLJ 96

Hon'ble Judges : Mir Iqbal Husain, J;A.R. Somnath Iyer, J

Bench : Division Bench

Advocate : E.S. Venkataramaiah, for the Appellant; D.M. Chandrasekhar, for the Respondent

Judgement

A.R. Somnath Iyer, J.—The short question involved in this writ petition is whether an application for renewal of a permit under the provisions of Section 58, M. V. Act should be accompanied by a certificate of solvency. The petitioner is a person who operates a stage carriage between Holavanahalli and Bangalore in the Districts of Tumkur and Bangalore during the last 30 years under the permits granted and renewed from time to time. But when he made an application for the renewal of that permit for a period of five years from April 1, 1961, he was called upon to produce a solvency certificate the production of which is in a proper case required by Rule 144 of the Mysore Motor Vehicles and Road Traffic Rules, 1945. That Rule reads:

"144. Application form for permit: Every application for a permit should be in one of the appropriate forms, namely, 21, 21-A, 21-B, 22, 23, 24 and 25 appended to these rules and shall be addressed to the Regional Transport Authority in accordance with Section 45 of the said Act.

Provided that an application for every stage carriage permit on any route shall be accompanied By a certificate issued by an officer of the Revenue Department not

below the rank of an Amildar to the effect that the applicant is solvent to the extent of a sum of at least Rs. 25,000/-".

What has been assumed by the Regional Transport Authority in directing the production of a solvency certificate is that the proviso to this rule is as much applicable to an application for renewal of a permit as it is to an application made in response to notification under Rule 127. It is obvious that this interpretation placed on the proviso by the Regional Transport Authority is plainly unsustainable. An application for renewal of a permit is what may be made u/s 58 of the M. V. Act and it is true that Sub-section (2) of that section states that an application for the renewal of a permit shall be disposed of as if it were an application for a permit, which means, that the procedure to be adopted by the Regional Transport Authority for disposal of an application for renewal of a permit is the same which it has to adopt for the disposal of an application for a permit for which an application is made for the first time.

But what is incontrovertible is that the fact that the procedure for the disposal of an application for renewal of the permit is the same as that to be adopted for the disposal of an application for a permit for which an application is made for the first time, does not convert or transform an application for the renewal of a permit into an application made for the grant of a permit for the first time. That being so, it is obvious that an application for the renewal of a permit is not an application for a permit attracting the proviso to Rule 144 of the Mysore Motor Vehicles and Road Traffic Rules, 1945 since that proviso is applicable only, as it expressly states, to an application for a stage carriage permit.

2. We must, in our opinion, reach that conclusion for an additional reason which is, that as the proviso states it governs only cases in which an application is presented in response to a notification calling for such applications under Rule 127 of the Rules and the case before us was not one such.

3. The impugned direction by which the Regional Transport Authority called upon the petitioner to produce the solvency certificate cannot, therefore, be sustained and it is accordingly quashed. The Regional Transport Authority will now dispose of the application for renewal made by the petitioner according to law.

4. No costs.