

(1978) 08 KAR CK 0016

In the Karnataka High Court

Case No : Writ Appeal No's. 195 and 196 of 1976

Karnataka State Road Transport Corporation, Bangalore

APPELLANT

Vs

Karnataka State Road Transport Appellate Tribunal, Bangalore
and Others

RESPONDENT

Date of Decision : 09-08-1978

Acts Referred:

Motor Vehicles Act, 1988 — Section 68 F (2)

Citation : AIR 1979 Kar 87

Hon'ble Judges : D.M. Chandrashekhar, C.J;N.D. Venkatesh, J

Bench : Division Bench

Judgement

D.M. Chandrashekhar, C.J.—Writ Appeal No. 195 of 1976 is from the order of Venkataramiah, J., in W. P. No. 4335 of 1975. Writ Appeal No. 196 of 1976 is also from his order in W. P. No, 5958 of 1974.

2. As the question arising for determination in both these appeals, is the same, we have heard these two appeals and are deciding them by this common judgment.

3. Both these appeals are by the Karnataka State Road Transport Corporation (hereinafter referred to as "the Corporation".) In W. P. No. 5958 of 1974 the impugned order is of the Karnataka State Transport Appellate Tribunal (hereinafter referred to as "the Tribunal") affirming the grant of a permit to operate the stage carriage between Mavathur and Bangalore. In W. P. No. 4335 of 1975 the grant of a permit to operate a stage carriage between Bangalore and Tariyur, has been impugned. The learned single Judge dismissed both the writ petitions.

4. The ground on which the aforesaid two permits has been assailed, is that the routes covered by them overlap a notified route under a scheme known as the "Bangalore Scheme" approved under S. 68-D of the Motor Vehicles Act (hereinafter referred to "the Act"). That scheme provides for total exclusion of

private operators on certain routes including portions thereof. It is undisputed that Jalahalli Cross and Hesaraghatta Cross lie on one of such notified routes and also the two routes in respect of which the impugned permits have been granted to private operators.

5. Shri P. R. Ramesh, learned counsel for the appellant (the Corporation), contended that the route between Jalahalli Cross and Hesaraghatta Cross forms a part of a notified route under the Bangalore Scheme and that S. 68-F(2) of the Act prohibited issue of any permit to a private operator to run the state carriage on a route any part of which would overlap such notified route.

6. The learned single Judge rejected the above contention relying on the decision of this Court in W. P. No. 6000 of 1974 wherein it was observed:

"The point of law covered by the second contention has been settled by this Court in Mysore State Road Transport Corporation v. M. R. Mahadeviah (Writ Petn. No 1805 of 1972 decided on 6-12-1973) (Kant.) in which it has been held that when the overlapping portion is situated within the village limits, grant of a permit on that portion would not amount to transgression of the scheme."

7. In W. P. No. 1805 of 1972 Venkataswami, J., observed:

"It is seen from the record that the overlapping portion of the varied route, in the context of the Bangalore Scheme, is hardly six furlongs in length and lies between Jalahalli and Hesaraghatta Cross. In this context, on behalf of the permit holder a report of the Executive Engineer has been produced. The said Engineer is of opinion that both these points lie within the limits of one and the same village viz., Dasarahalli. In that view, it cannot be said that these two points are different termini of a route. On the other hand, they must be deemed to be two termini comprised in one and the same village, which must be deemed to be only one terminus in the context of a route operated by stage carriages."

8. Sri Ramesh contended that the view taken in the aforesaid decisions, is in conflict with the ruling of the Supreme Court in Mysore State Road Transport Corporation Vs. Mysore State Transport Appellate Tribunal, . He invited our attention to the observation of the Supreme Court that if a particular route granted to a private operator overlaps a notified route, such permit is not valid however short may be the distance over which such overlapping takes place.

9. On behalf of the respondent-permit holders, Sri M. Rangaswamy and Sri Ananda Shetty contended that the routes covered by the impugned permits do not overlap but merely intersect the notified route and that such intersection is not prohibited as is evident from the following observations of the Supreme Court in Mysore State Road Transport Corporation case (supra) at p. 1944:

"The intersection of the notified route may not, in our view, amount to traversing or overlapping the route because the prohibition imposed applies to a whole or a part of the route on the highway on the same line of the route. An intersection cannot be said to be traversing the same line, as it cuts across it."

10. The material question for determination in these appeals is whether the two routes of private operators overlap or intersect the notified route under the Bangalore Scheme. Sri Rangaswamy and Sri Ananda Shetty contended that since Jalahalli Cross and Hesaraghatta Cross lie within the limits of same village, i.e., Dasarahalli, they cannot be regarded as two different termini or places, that the stretch of the road between them cannot be regarded as a route or a part thereof and that each of the two routes of the private operators merely intersect the notified route at Dasarahalli.

11. According to strict geometric concepts, a point has no dimension and a line has also no breadth. However, for deciding whether there is intersection of overlapping, we should adopt a common sense approach and not a pedantic one based upon pure geometric concepts. In a village like Dasarahalli, no one would think of boarding a stage carriage at one end of that village to get down at another end of the same village. Hence, any two points on the road within the limits of that village, cannot reasonably be regarded as two termini and two places on a route running through that village. Hence, the stretch of the road lying within those two points cannot reasonably be regarded as a route or a part thereof. When two different routes pass through such a village and not beyond the limits thereof, even if the road between such limits of that village is common for both the routes, it is more reasonable to regard those two routes as intersecting at that village than to regard them as overlapping within the limits of that village. If the aerial route between Delhi and Madras and the aerial route between Bombay and Calcutta pass through Nagpur, it is reasonable to say that they overlap because the planes proceeding in both the routes, while landing at Nagpur for an intermediate halt, use the same air strip in the airport at Nagpur ?

12. Since intersection of the notified route, as distinct from overlapping, is permissible according to the ruling of the Supreme Court in Mysore State Road Transport Corporation Vs. Mysore State Transport Appellate Tribunal, (Supra) the grant of impugned permits did not contravene S. 68-F (2) of the Act.

13. Hence, we affirm the impugned decisions of the learned single Judge and dismiss these appeals.

14. In the circumstances of the cases, the parties will bear their own costs.

15. Appeal dismissed.