
(1997) 09 AP CK 0055

In the Andhra Pradesh High Court

Case No : Writ Petition No. 17907 of 1989

K.G. Jagannath and Another

APPELLANT

Vs

State Transport Appellate Tribunal, A.P., and others

RESPONDENT

Date of Decision : 24-09-1997

Acts Referred:

Motor Vehicles Act, 1939 — Section 48(3), 60, 68

Citation : (1998) 1 ALD 67

Hon'ble Judges : Y. Bhaskar Rao, J;V. Rajgopala Reddy, J

Bench : Division Bench

**Advocate : Mr. M.V. Ramana Reddy for V.N. Reddy, for the Appellant;
Government Pleader for Transport and Mr. A. Rangacharyulu, for the Respondent**

Judgement

V. Rajagopala Reddy, J.—The petitioner is the State Carriage permit holder of aii inter-State route plying the state carriage from Bangalore of Karnataka State to Ananthapur of A.P.State. He applied for variation of the permit for increase of two single trips and inclusion of one additional vehicle to ply on the said route and obtained a favourable order from the Karnataka State Transport Authority on a condition that he should obtain counter-signature of the State Transport Authority of A.P. He has therefore applied to the State Transport Authority of A.P. for counter-signature and the State Transport Authority, Hyderabad, passed an order dated 15-6-1984 granting counter-signature. Aggrieved by the order, the Karnataka State Transport Authority, Bangalore, filed R.P.No.111/85 before the State Transport Appellate Tribunal, A.P., Hyderabad. It was argued before the Tribunal that the State Transport Authority, Hyderabad, had no jurisdiction to grant or counter-sign variation and that the variation was impermissible under law as it violates the terms and conditions of approved scheme. Relying upon a Division Bench decision in A.P.S.R.T.C. v. State Transport Appellate Tribunal, Hyderabad 1987 (2) ALT 900 (W.A.No.231/83, dated 13-7-87) wherein it was held that the State Transport Authority was not competent to grant any variation to any existing permit u/s 48(iii)(xxi) of the Motor Vehicles Act, 1939 and the Rules framed thereunder, the Tribunal, by an order dated 14-12-1989, allowed

the Revision Petition and set aside the order of the State Transport Authority, Hyderabad. The petitioner challenges the validity of the order of the Tribunal in this writ petition.

2. The only contention raised before us by the learned Counsel for the petitioner is that the decision of the Division Bench in the above case (*supra*) was overruled, to the extent that it laid down the proposition that the State Transport Authority has no power to vary the conditions of permit granted, holding that the State Transport Authority has got undoubted jurisdiction to vary the conditions of permit granted, by a decision of Full Bench in *K. Pamanna Vs. The State Transport and Appellate Tribunal, A.P., Hyderabad and others*, and hence the writ petition has to be allowed.

3. However, learned Counsel for the 3rd respondent submits that though the Full Bench decision governs the case to the extent that the State Transport Authority has got jurisdiction to vary the conditions of the permit, the writ petition has to fail in view of existence of approved schemes touching the variations of the route, which is sought for, whose conditions exclude operation by private operators.

4. The question whether the State Transport Authority, which granted the permit, has jurisdiction to vary the conditions of the permit, is no longer "res-integra", in view of the Full Bench decision in *Ramanna's case (supra)*. The petitioner should, therefore, have succeeded in the writ petition but for the fact of the existence of approved schemes on the route. It has been held by the very same Full Bench that once a scheme was published the embargo u/s 68-FF of the Act operates even to the grant of variations of a permit in respect of any notified area or notified route, except in accordance with the provisions of the scheme. The only question, therefore, is whether the conditions of any approved schemes prohibit the grant of variation of the petitioner's permit.

5. It is contended, forcibly, by the learned Counsel for the petitioner that the question of the existence of the approved schemes on the route or not, is a matter to be decided by the State Transport Appellate Tribunal, A.P., Hyderabad. He therefore, requests this Court to remit the case to the Tribunal to consider the said question and until then the petitioner is entitled to run his bus on the route with the variations already granted.

6. Learned Counsel for the 3rd respondent has taken us to the order passed by the State Transport Appellate Tribunal, Bangalore, in Appeal No. 15/84, in which the R3 herein was the 2nd respondent. The said appeal forms a batch of appeals filed by Karnataka Road Transport Corporation, Bangalore and others questioning the grant of variation by the State Transport Authority, Bangalore, in favour of the petitioner, on the route lying within the Karnataka State. The relevant portion of the order in the above appeal reads as follows :

"It is an admitted fact that the route in question is covered under the approved Kolar Pocket Scheme which is to the complete exclusion of private operators and

that portion of the said route overlaps the notified route under Kolar Pocket Scheme. But, however, the learned Counsel for the grantee in the light of the judgment rendered by the Hon'ble Supreme Court in C.A.Nos.214-215/84 dated 13-2-87 submitted that even though portion of the route in question overlaps the notified route under Kolar Pocket Scheme, such grant of increase of trips and increase of one more vehicle is held to be valid and hence submitted that the grant made in favour of the grantee may be confirmed but as far as timings are concerned, the same may be set aside and the matter may be remitted to the Secretary, KSTA, for assignment of " fresh timings."

7. In view of the above, it can safely be held that the route in question is covered by the approved schemes, the conditions of which prohibit the grant of variations as sought for by the petitioner. We, therefore, find it wholly unnecessary to remit the case to the State Transport Appellate Tribunal, Hyderabad, for consideration on the question whether the variation violates the conditions of any approved schemes.

8. In view of the above, the writ petition fails and is accordingly dismissed and the impugned order is confirmed, though on different point. In the circumstances, we do not order any costs.