

(1982) 11 RAJ CK 0024

In the Rajasthan High Court

Case No : Civil Writ Petition No"s. 1246 and 1247 of 1979

Kishna Ram and Another

APPELLANT

Vs

State Transport Appellate Tribunal Rajasthan, Jaipur and
Others

RESPONDENT

Date of Decision : 23-11-1982

Acts Referred:

Constitution of India, 1950 — Article 141, 226

Citation : AIR 1983 Raj 169 : (1983) RLW 157 : (1982) WLN 515

Hon'ble Judges : G.M. Lodha, J

Bench : Single Bench

Advocate : L.L. Sharma and N.L. Pareek, for the Appellant; S.M. Mehta, for the Respondent

Final Decision : Dismissed

Judgement

G.M. Lodha, J.—These two writ petitions relate to the grant or refusal of the permit under the provisions of the Rajasthan Motor Vehicles Act by the Regional Transport Authority for a route which admittedly is in Bikaner Division. It is common ground that the routes in both these writ petitions are in Bikaner Division, and the Bikaner Division falls within the jurisdiction of the seat of the High Court at Jodhpur.

2. Mr. Mehta has raised a preliminary objection that since the matter relates to Bikaner Division, the writ petitions cannot be entertained at Jaipur, Mr. Sharma, learned counsel for the petitioners has submitted that the revisional order was passed by the State Transport Appellate Tribunal, and, therefore, this Court has got jurisdiction to entertain this writ petition.

3. Mr. Sharma has relied upon the decision of the Hon'ble Supreme Court in Sri Nasiruddin Vs. State Transport Appellate Tribunal, Mr. Mehta has relied upon the judgment of this Court in Ram Rakh Vyas Vs. The Union of India (UOI) and Others, in which validity of the notification Dt. 23-12-76 and the explanation

added to it by the then Chief Justice Shri V. P. Tyagi was considered and after taking into consideration the decision of Nasiruddin's case, the explanation as well as the original notification was declared to be valid.

4. The short point which has been debated before me related to the question whether if the original order is of an area falling within the jurisdiction of the area covered by the seat of the High Court at Jodhpur, only on account of appellate or revisional order having been passed at Jaipur, the writ petition can be filed at Jaipur challenging that appellate or revisional order,

5. A short reply to the above debate was given by the then Chief Justice Mr. V. P. Tyagi, by adding the explanation to notification" Dt. 23-12-76 on 12-1-77. Extracted in paras 3 and 4 of Ram Rakh Vyas's judgment, and which reads as under :--

"A writ case shall be deemed to arise in the district where the cause of action for issuing the first order pertaining to that case passed by a court, tribunal or authority has arisen irrespective of the district in which the appeal or revision from that order is heard and irrespective also of the fact whether or not there has been any modification or reversal of the order in appeal or revision."

6. It was made clear in order to remove all doubts and difficulties that a writ case shall be deemed to arise in the district where the original cause of action for issuing the order pertaining to that case passed by a court, tribunal or authority has arisen irrespective of the district in which the appeal or revision from that order is heard and also of the fact whether or not there has been any modification or reversal of the order in appeal or revision.

7. However, Mr. Sharma submits that this explanation is invalid and unconstitutional in view of the decision of the Hon'ble Supreme Court in Sri Nasiruddin Vs. State Transport Appellate Tribunal, Relying upon the observations contained in paras 36 and 37 Mr. Sharma submits that cause of action in an application under Article 226 of the Constitution should be the expression, as is commonly understood, and if the cause of action arose because of the appellate or in an revisional order, which came to be passed at or in an area of Jaipur jurisdiction, the fact that the original order was passed at a place outside that area would not oust the jurisdiction of Jaipur, In that case, the controversy was between Lucknow and Allahabad. The Hon'ble Supreme Court on a discussion of the implications and meaning of the phrase "cause of action" decided that if partly cause of action arises in one area and partly outside the specified area, the litigant will have the choice to institute proceedings either at Allahabad or Lucknow.

8. On a careful consideration of the various facets of the controversy raised before me, I am of the opinion that after the Division Bench judgment of this Court in Ram Rakh Vyas Vs. The Union of India (UOI) and Others, the controversy is no longer valid and has got no relevance so far as single Bench of this Court is concerned. Undoubtedly, the judgment of Ram Rakh Vyas case is a

Division Bench judgment. Again, the notification Dt. 23-12-76 and the explanation added to it on 12-1-77 extracted in paras 3 and 4 of that judgment were declared to be valid and in para 36 their Lordships constituting a Division Bench observed that their validity is beyond question.

9. Mr. Sharma's contention that the Hon"ble Supreme Court's observations are to be respected, as under Article 141 of the Constitution that is the law of the land admits of no doubt or debate. However, what is the meaning, implications and interpretation of the judgment or the observations of the Hon"ble Supreme Court is again a matter of controversy. Once this Court sitting in Division Bench had the advantage of having the above judgment of Sri Nasiruddin Vs. State Transport Appellate Tribunal, before it, which was not only cited, but has been referred to in that judgment, it is not open to this Court sitting in single Bench to consider and decide whether a Division Bench of this Court was justified in holding the notification and its explanation as valid or not. The best judicial traditions, established principles of precedents, decency and decoram of judicial functioning, all warrant that no attempt should be made by a single Bench to undermine or in any way to sit over the judgment of a Division Bench.

10. Undoubtedly, Sri Nasiruddin Vs. State Transport Appellate Tribunal, was before the learned Judges who constituted the Division Bench in the case of Ram Rakh Vyas Vs. The Union of India (UOI) and Others, and again not only Nasiruddin's judgment has been referred to, but after making a reference in para 35, their Lordships have held in unambiguous, unmistakable, clear and categorical terms that the notifications issued by the Hon"ble Acting Chief Justice are valid and their validity is beyond question.

11. Mr. Sharma confronted with the above obvious, patent and not latent position of law submitted that I should make a reference to a Division Bench for reconsideration of the view taken in: Ram Rakh Vyas's case. Mr. Mehta opposed this prayer also and submitted that the learned Acting Chief Justice, who issued the orders and notification introduced the explanation by clarifying what is the meaning of "cause of action" was alive to the factual position that appellate or revisional authorities are mostly located at Jaipur, and if this clarification is not issued, the seat of the Rajasthan High Court at Jodhpur would be deprived of the jurisdiction in almost all cases. Mr. Mehta submitted that the order by which explanation was introduced was issued after taking into consideration the problems facing the administration of justice in view of the establishment of the High Court Bench at Jaipur, and this Court in a Division Bench Judgment, referred to above has confirmed and approved that explanation to the notification on judicial side also. Mr. Mehta, therefore, argued that in view of the above there is no warrant for making a reference and making doubtful things which are certain. Mr. Mehta referred to my judgment in S. B. Civil Writ Petition No. 1427/81 Mohammed Khelique v. Union of India, decided on 9-11-82 and further submitted that there are other judgments also.

12. I have given a thoughtful consideration to the request of Mr. Sharma that I

should make a reference requesting the Hon"ble Chief Justice to constitute a larger Bench for reconsidering the view in Ram Rakh Vyas Vs. The Union of India (UOI) and Others, Here again, I am convinced that since there was no analogous explanation as contained in para 4 of Ram Rakh Vyas"s case, the view taken by the Hon"ble Supreme Court in respect of partial cause of action and maintainability of the writ petition on account of that in those cases where revisions or appeals are filed, is limited to the facts and circumstances prevailing in Uttar Pradesh and the notification which was issued in respect of the constitution of Lucknow Bench and division of work between Lucknow and Allahabad. In the case of Rajasthan, nothing has been left implicit, as the Hon"able Acting Chief Justice Mr. V. P. Tyagi as he then was, made it specific, express and explicit by amendment on account of introduction of the explanation as contained in para 4 of the judgment of Ram Rakh Vyas"s case. In my view, the view taken in that case suffers from no infirmity warranting a reconsideration by a larger Bench. That being so, it would only be creating uncertainty for litigants, resulting in multiplicity of litigation, if this view is referred to a larger Bench for reconsideration, and I am of the opinion that one of the basic attributes of jurisprudence and justice is that it must be certain and uncertainty must be avoided.

13. The result of the above discussion is that these two writ petitions cannot be entertained by this Court, as the cause of action arose in Bikaner Division by the impugned order of the R. T. A., and it is immaterial that the order of the R.T.A. which was challenged by revision before State Transport Appellate Tribunal was reversed or modified, at Jaipur, Both these writ petitions cannot be entertained by this Bench, and, therefore, the same are dismissed for want of jurisdiction. The ad interim stay orders passed by this court are also vacated.

14. Before parting with this case, I must observe that these two cases Nos. 1246/79 and 1247/79 are unfortunately pending at the stage of admission till now. The fact that the respondent has raised a point of jurisdiction which could have been raised and pressed earlier, but is being pressed now, is all the more unfortunate. The method and manner by which cases remain pending for admission for four years cannot be appreciated. If the respondent immediately after service would have pressed this objection regarding jurisdiction, much of the time of all concerned could have been saved.

15. Since the writ petitions have been dismissed for want of jurisdiction, I am inclined to accept the prayer of Mr. L. L. Sharma that the writ petitions along with all the documents be returned to the petitioners according to the rules.