

(1984) 10 MP CK 0012

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 2442 of 1984

Krishan Gopal Dixit

APPELLANT

Vs

M.P. State Road Transport Corporation and Others

RESPONDENT

Date of Decision : 18-10-1984

Acts Referred:

Evidence Act, 1872 — Section 115

Citation : AIR 1986 MP 103 : (1985) ILR (MP) 215 : (1985) 30 MPLJ 434 : (1985) MPLJ 434

Hon'ble Judges : Gulab Chand Gupta, J;C.P. Sen, J

Bench : Division Bench

Advocate : N.K. Modi, for the Appellant; V.S. Dabir, for the Respondent

Final Decision : Dismissed

Judgement

C.P. Sen, J.

By this order M. P. No. 2443 of 1984, Madan Singh Baghel v. MPSRTC and Ors., M.P. No. 2445 of 1984, Ashok Kumar Jain v. MPSRTC and Ors. M.P. No. 2409/84, Naresh Kumar Singh v. Union of India and Ors., M.P. No. 2505/84, Raman Kant Asthana and Anr. v. MPSRTC and Ors., and M. P. No. 2394/84, Shyamalal Gupta v. MPSRTC are also disposed of as the facts are similar and the questions involved are identical. In these writ petitions the petitioners are seeking direction to the respondents to allow the petitioners to ply their passenger buses on the routes on which they are already plying as nominees of the M.P. State Road Transport Corporation (hereinafter referred to as Corporation) and for prohibiting the respondents from appointing fresh nominees on these routes.

In the first four petitions, the facts are almost identical while in the last petition there is slight difference. All these petitioners are claimed to be educated unemployed graduates. The Government of India sponsored a programme known as "Half a million job programme" for giving gainful employment to the educated unemployed persons of the country by creating various schemes. "Half a million

job programme" was one of the points of the 20 point programme enunciated by the Prime Minister of India. The State Government has given statutory recognition to the programme by enacting M.P. Lok Abhikaranon Ke Madhyam Se Bis Sutriya Karyakram Ka Karyanvan Adhiniyam, 1980. Out of the schemes formulated, there was scheme No. 5 Truck Matador/bus Hiring Scheme sponsored by M.P. State Agro Industries Development Corporation Ltd. and the same was subsequently adopted by the Corporation. Under this scheme the first four petitioners submitted project report to the State Government. The project report in turn was forwarded to the banks concerned for financing loan to the petitioners for purchase of passenger buses. The Corporation by letter dt. 6-9-1975 informed the M.P. State Agro Industries Development Corporation Ltd. that persons who would be selected under the scheme would be provided in the first instance temporary permits and if found viable then regular permits would be issued. The petitioners acting on these representations purchased passenger buses, Ten percent of the price was given by the State Government as soft loan, 80% by the bank loan and the balance of 10 per cent was contributed by the petitioners. The buses were duly registered. The petitioners were then granted routes on which they were to operate their buses. Written agreement was also executed. Initially the petitioners were required to pay 8 paisa per kilometer as nomination fee which was increased to 15 paisa and subsequently 22 paisa. The agreement which was initially for two years was extended from time to time and the last extension was given up to 31-8-1984. However, the petitioners have yet to pay back the loans taken, still the Corporation invited fresh tenders from the educated unemployed persons for operating on various routes including the routes granted to the petitioners insisting that the persons applying must possess a vehicle of model not earlier than 1980. In the last petition mentioned above, the Corporation invited tenders for operating on route as nominee of the Corporation under the said Scheme and it was mentioned that preference will be given to educated unemployed persons. Since there was not much time the petitioner acquired a passenger bus by taking loan from financiers. The bus was duly registered and the petitioner was given the route as a nominee of the Corporation initially for a period of one year which was extended from time to time till 31-8-1984. Now fresh tenders have been called from educated unemployed persons possessing not earlier than 1980 model vehicle for operating on the route. Therefore, these petitions were filed and interim stay was granted permitting the petitioners to operate on the routes in question and allowing the corporation to open the tenders called but the routes are not to be operated by a new operator until further orders.

The petitioners contend that the calling of fresh tenders by the Corporation is contrary to the scheme of rehabilitating educated unemployed persons. The petitioners were made to operate on routes which proved uneconomical to the Corporation. The petitioner not only operated those routes but gave substantial income to the Corporation by way of nomination fee. Substantial amount was given to the Government by way of passenger tax and in that process the

petitioners have incurred liabilities which they would not be able to repay and their vehicle, would become idle. So instead of giving employment to the petitioners, they would be put in more precarious condition by making them not only unemployed but imposing permanent liabilities without any means of discharging the same, The Corporation is a body constituted u/s 3 of the Road Transport Corporation Act, 1950, and is an authority within the meaning of Article 12 of the Constitution. The Corporation is bound to act reasonably and having provided... employment to the petitioners, it cannot throw them out of the employment. The petitioners are entitled to take advantage of the policy to keep them employed at least till such time they are in a position to discharge their liabilities. The Corporation has committed itself by its letter that on establishing the need, the petitioners would be given regular permits for plying passenger buses on the routes as nominees of the Corporation. The Corporation is estopped from acting contrary to the assurance made by it. In M. P. No. 2442/84 the petitioner was permitted to operate on the route Gwalior-Shivpuri via Pohri since 1977. In M.P. No. 2443/84 the petitioner was permitted to operate on the route Shivpuri-Sabaigarh via Pohri as a nominee of the Corporation since 1977. In M.P. No. 2445/84 the petitioner was permitted to operate on the route Gwalior-Bhander via Unnav as a nominee of the Corporation since 1979. In M.P. No. 2409/84 the petitioner was permitted to operate on the route Gwalior-Bhander via Sonagir as a nominee of the Corporation since 1977 and in M.P. No. 2505/84 the petitioners were permitted to operate on the route Shivpuri-Gwalior via Dabra since 1978. In M.P. No. 2394/84 the petitioner was permitted to operate on the route Shivpuri-Berad via Pohri as a nominee of the Corporation since February 1982. All these permits were extended from time to time up to 31-8-1984.

The Corporation submitted that the petitioners in M.P. No. 2505/84 had filed a petition M.P. No. 345/84 in Gwalior Bench of this Court which was withdrawn after hearing the parties. They had also filed Civil Suit No. 57-A/84 in the Court of IIIrd Civil Judge, Class-II, Gwalior. The petitioners got no vested right as such for operating on the routes earlier granted to them as nominees of the Corporation. The petitioners are no longer educated unemployed persons as now they own buses. The matter is purely contractual. Therefore, on the expiry of the contracts the Corporation is no longer bound to permit the petitioners to operate on these routes. The Corporation came forward to help educated unemployed under "Employment Promotion Programme". It was not incumbent on the Corporation to provide jobs to the petitioners. They only extended help to the petitioners to stand on their own legs. Under "Half a million job programme" the unemployed were to be provided with jobs while under the "Employment Promotion Programme" unemployed persons only to be helped to stand on their own legs. The petitioners came under the latter category and not the former. If the petitioners had properly worked the scheme, they ought to have paid up the loan within a period of 3 years with net profit. Since the fees offered by the petitioners were no longer economical, fresh tenders were called from the

educated unemployed persons as the petitioners were paying 22 paisa as nomination fee but in the tenders now submitted the rates which have been quoted are now much higher up to Rs. 1.31 p./- per kilometer. The petitioners have got no right as such to challenge fresh tenders after having their contracts come to an end.

After having heard the parties, we are of the opinion that there is no merit in these petitions. The petitioners are basing their entire claim in the first four petitions on the letter of the Corporation dated 6-9-1975 stating that after operation of the temporary permits when need is established the Corporation will move for regular permits for the routes. While in the last petition the petitioner is basing his claim on tender condition No. 7 under which he was permitted to operate as a nominee of the Corporation which stipulated that at the first instance the agreement will be for a period of 2 years. In all these petitions the petitioners have been plying their buses on the routes in question of regular permits as nominees of the Corporation. So it cannot be said that the Corporation has not kept up its promise by permitting the petitioners to operate on regular permits. The first four petitioners are operating for more than six years on the routes granted to them while the petitioner in the last petition is operating for more than 2 1/2 years. So they cannot make a grievance that they have not been permitted to operate initially for a period of 2 years. It is true that under the new tender notice a condition has been imposed that the tenderer must possess a vehicle not earlier than 1980 model. All these petitioners possess vehicles of earlier model and naturally they are not eligible to be considered. The tenders which have been submitted are offering much higher rate of nomination fee than that which is being paid by these petitioners to the Corporation. We asked the petitioners whether they are willing to operate on their routes on the highest rate offered by the present tenderers but the petitioners expressed their inability to operate their buses on those rates as nomination fee. Therefore, there is no question of any estoppel against the Corporation nor there is any right in the petitioners to insist that they alone should be permitted to operate on the routes they are presently operating as nominees of the Corporation. The Corporation never asked the petitioners to purchase vehicles by taking loans. What they insisted in their earlier tender was that the persons applying must possess a vehicle. The petitioners were given sufficient time to establish themselves. The learned counsel for the Corporation submitted that only 40% of the routes in the State are nationalised, rest of the 60% routes are open to the private operators. Nothing prevents the petitioners from competing with others and operating on the routes which are not nationalised as they now possess buses. If they had properly worked the scheme, they ought to have cleared their liabilities and earned profits. If some liability still remains, it is due to their fault and the Corporation is not bound to help them in liquidating their liabilities.

Therefore, the petitions fail and they are dismissed. There shall be no order as to costs. The outstanding security amount be refunded to the petitioners.