
(2010) 06 UK CK 0209
In the Uttarakhand High Court

Manmohan Singh Bisht

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 24-06-2010

Acts Referred:

Citation : (2011) 1 UC 716

Hon'ble Judges : J.S. Khehar, C.J.;Sudhanshu Dhulia, J

Bench : Division Bench

Judgement

J.S. Khehar, C.J.—Through the instant Special Appeal, the appellant herein has assailed the order passed by the learned Single Judge dated 15.06.2010, vide which Writ Petition (M/S) No. 1875 of 2009 filed by the appellant alongwith a number of other writ petitions have been dismissed. The operative part of the order rendered by the learned Single Judge is being extracted hereunder:

I have perused the Division Bench judgment of this Court dated 21.05.2007 rendered in Writ Petition No. 1562 of 2006 (M/B) Jitendra Joshi v. State of Uttaranchal and Anr. In paragraph 4, the Division Bench has observed as under:

4. As the Regional Transport Authority, Dehradun is yet to consider the applications for grant of permit, the writ petition, in our opinion, is premature. The petitioner has already submitted his objections before Regional Transport Authority, Dehradun. In the event of grant of permit by Regional Transport Authority, Dehradun, the petitioner can very well avail the statutory remedies under the provisions of the Motor Vehicles Act, 1988.

In the present writ petitions also the petitioner-Transport Corporation has already submitted its objections before the R.T.A. The present writ petitions are squarely covered by the Division Bench judgment of this Court. The final decision is yet to be taken by the R.T.A. in the present writ petitions. If the petitioners feel aggrieved by the order passed by the R.T.A., it is always open to the petitioners to take recourse to the statutory remedies under the provisions of the Motor Vehicles Act and the petitioners can take all the grounds including the ground of

competence of the R.T.A. before the appropriate Forum. Without entering into the merits of the case, all the four writ petitions being premature are liable to be dismissed at the threshold.

2. During the course of the hearing, learned Counsel for the appellant could not dispute, that the Regional Transport Authority, Dehradun has, as of now, not passed any order granting any permit in furtherance of the advertisement issued by him. It is also not a matter of dispute, that the appellant herein has preferred objections on the same grounds before the Regional Transport Authority as were raised by the appellant in Writ Petition (M/S) No. 1875 of 2009. In the aforesaid view of the matter, we are satisfied that the learned Single Judge was fully justified in concluding, firstly that, the appellant had approached this Court prematurely, inasmuch as, no order had been passed by the Regional Transport Authority, Dehradun. Secondly, it also cannot be disputed that the determination rendered by the Regional Transport Authority, Dehradun, if the same is to the dissatisfaction of the appellant, can be assailed by the appellant by invoking the provisions of the Motor Vehicles Act, 1988, wherein an efficacious alternative remedy is available to the appellant. The choice of the appellant to approach this Court, without waiting for any adverse order and/or without availing of the alternative remedies available to the appellant, is clearly unjustified.

3. To be fair to the learned Counsel for the appellant, during the course of the hearing, it was submitted by the learned Counsel for the appellant, that an interim order having been passed by this Court during the course of the pendency of Writ Petition (M/S) No. 1875 of 2009, the issues on merits raised by the appellant ought to have been adjudicated upon. It was the second contention advanced by the learned Counsel for the appellant, that pure issues of law which have been declared by the Supreme Court could be agitated before this Court without waiting for the Regional Transport Authority to pass an illegal or unauthorized order. We find no merit in either of the aforesaid two submissions. A declared proposition of law at the hands of the Supreme Court can also be brought to the notice of the Regional Transport Authority for its consideration. In case liberty is granted to the appellant herein or other similarly situated as him to approach this Court in the manner as the appellant has done, all the litigation would flow to this Court without caring for the concerned authorities. It would encourage people to disregard alternative statutory remedies provided to them. In the circumstances mentioned hereinabove, we find no merit in the contentions advanced by the learned Counsel for the appellant.

4. For the reasons recorded hereinabove, the instant special appeal is dismissed.