
(2001) 08 AP CK 0101

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13189 of 2001

Masarath Jahan Begum

APPELLANT

Vs

State of A.P. and another

RESPONDENT

Date of Decision : 09-08-2001

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 11
Motor Vehicles Act, 1988 — Section 118, 12, 8, 8(5)

Citation : (2001) 5 ALD 642 : (2001) 6 ALT 24

Hon'ble Judges : S.B. Sinha, C.J.;V.V.S. Rao, J

Bench : Division Bench

Advocate : M/s Mohd. Osman Shaheed and Mohd. Moin Ahmed Quadri, for the Appellant; Government Pleader for Transport, for the Respondent

Final Decision : Allowed

Judgement

S.B. Sinha, C.J.—The sole question which arises for consideration in this application is whether a written test can be prescribed in terms of Rule 11 of the Central Motor Vehicles Rules, 1989 ("the Rules"). The Motor Vehicles Act, 1988 ("the Act") was enacted consolidating and amending the law relating to motor vehicles. Section 8 of the Act provides for grant of learner's licence. Sub-section (5) of Section 8 reads thus:

"No learner's licence shall be issued to any applicant unless he passes to the satisfaction of the licensing authority such test as may be prescribed by the Central Government."

2. It is not in dispute that the Central Government in exercise of the power conferred upon it u/s 12 of the Act made rules known as Central Motor Vehicles Rules, 1989. Rule 11 of the said rules is in the following text.

11. Preliminary test :--(1) Save as otherwise provided in sub-rule (2), every applicant for a learner's licence shall present himself before the licensing authority on such date, place and time, as the licensing authority may appoint,

for a test and satisfy such authority that the applicant possesses adequate knowledge and understanding of the following matters, namely:-

- (a) the traffic signs, traffic signals and the rules of the road regulations made u/s 118;
- (b) the duties of a driver when his vehicle is involved in an accident resulting in the death or bodily injury to a person or damage to property of a third party;
- (c) the precautions to be taken while passing an unmanned railway crossing; and
- (d) the documents he should carry with him while driving a motor vehicle.

(1-A) In determining as to whether an applicant possesses adequate knowledge and understanding of the matters referred to in sub-rule (1), the licensing authority shall put to the applicant questions of objective type such as specified in Annexure VI.

Explanation :--For the purpose of this sub-rule, "adequate knowledge" means answering correctly atleast 60 per cent of the questions put to him.

(2) Nothing contained in sub-rule (1) shall apply to the following class of applicants, namely:--

- (a) the holder of an effective driving licence;
- (b) the holder of a driving licence which has expired but five years have not elapsed;
- (c) the holder of a learner's licence issued or renewed after the commencement of these rules."

3. A bare perusal of the said rule clearly shows that no provision has been made therein for conducting a written test. Pursuant to and in furtherance of the power conferred upon the licensing authorities in terms of sub-section (5) of Section 8 of the Act, they can conduct the test which is prescribed in terms of the rules. The authorities, being statutory authorities, must confine themselves within the four corners of the statute.

4. The respondents have filed a counter-affidavit wherein inter alia it has been stated that for those learners who know English language, a written test is being prescribed, whereas for the uneducated candidates only an oral test would be conducted. We do not find any rationale behind this police apart from the fact that such a power has not been conferred upon the authorities in terms of Rule 11 of the rules.

5. For the reasons aforementioned, we are of the opinion that the action on the part of the concerned respondent directing the candidates for appearing at a written test is ultra vires Sections 8 of the Act and Rule 11 of the rules.

6. The writ petition is allowed with the aforementioned observations. No order as

to costs.