

(1987) 11 AHC CK 0019

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 19322 of 1987

Mata Din Yadav

APPELLANT

Vs

Commissioner, Jhansi Division, Jhansi and Others

RESPONDENT

Date of Decision : 27-11-1987

Acts Referred:

Motor Vehicles Act, 1939 — Section 62

Citation : AIR 1988 All 148

Hon'ble Judges : Palok Basu, J;A.N. Varma, J

Bench : Division Bench

Advocate : R.A. Sharma, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

1. We have heard both the counsel for the parties, but find no merit in this petition.
2. The first contention raised by the learned counsel for the petitioner, an existing operator, is that the application filed by the respondent 4 for the grant of temporary permit should have been rejected as it did not disclose any purpose contemplated u/s 62 of the Motor Vehicles Act.
3. The submission is devoid of any merit. In the application the respondent No. 3 had generally mentioned the need of the travelling public as the purpose for which the grant was sought. It is true that in the application the purpose mentioned was not very specific. But the impugned order clearly states the purpose for which temporary permit was being granted in favour of respondent 2. It refers to the Government Order dt. 25-3-1987 issued u/s 43A of the Act under which directions were issued to the S.T.A. and R.T.A. to increase the strength on routes where there has been no increase in the stage carriage permits for the last several years. The reason stated for such a notification is the increase in population, trade, transit and Government work etc etc. The purpose

disclosed, therefore, is an increasing need for having more vehicles operating on the routes in respect of which no increase in the strength had taken place for the last five years.

4. The present was such a route undeniably. The purpose mentioned in Section 62 was hence clearly established and was recognised by Government in its Order dt. 25-3-1987.

5. Learned counsel, however, contended that the said need was in the nature of a permanent need and could not hence form the basis for grant of a temporary permit u/s 62 of the Act.

6. A complete answer to this submission is provided by the decision of the Supreme Court in the case of The Madhya Pradesh State Road Transport Corporation Vs. The Regional Transport Authority, Raipur, in which their Lordships ruled that a particular temporary need can co-exist with a permanent need for a particular route. It is apparent that the R.T.A. being aware of the need for increase in the strength as recognized by the Government felt that temporary permit should be granted u/s 62 of the Act to meet the present and immediate need.

7. Learned counsel next contended that the Secretary of the R.T.A. had no jurisdiction to grant the permit. Ordinarily this submission would be correct. But in the peculiar facts existing at the relevant time, this argument cannot sustain. It is not denied that on 22-8-1987 the State Government had issued a telex purporting to cease all the S.T. As. and the R.T. As throughout the State. The R.T. As thereupon stopped functioning as a consequence of that Telex. This Court taking note of that situation, therefore, issued directions in Sept. Oct. 1987 in a number of cases asking the R.T.O. to perform the functions and duties of the R.T. As. during the period when the R.T. As, were supposed to be under suspension. It is apparent that it is because of this situation that the power was exercised by the Secretary of the R.T.A., namely, R.T.O. In these circumstances it would not be just and proper to interfere with to impugned order dt. 3-9-1987 merely on the ground that the same has not been passed by the Regional Transport Authority.

8. Lastly, learned counsel contended by means of Annexure-5 the R.T.O. has also fixed the time table which clearly affects the time table which was approved for the petitioner. In our opinion this grievance should appropriately be considered by the competent authority and can be agitated by way of a revision u/s 64A of the Act. If the petitioner files such a revision or appeal (if the same lies), the delay in filing the same may be condoned provided that the petitioner lodged the appeal or revision within 30 days from today.

9. There is thus no merit in this petition and the same is dismissed subject to the observations stated above. Needless to add the interim order stands automatically discharged with the dismissal of the petition.

10. A copy of this order may be given to the learned counsel for the parties within three days on payment of necessary charges.