

(1964) 04 RAJ CK 0005
In the Rajasthan High Court
Case No : Civil Writ No. 1 of 1964

Modern Transport Co., Kota

APPELLANT

Vs

State Transport Authority, Jaipur and Others

RESPONDENT

Date of Decision : 16-04-1964

Acts Referred:

Motor Vehicles Act, 1939 — Section 64A

Citation : AIR 1964 Raj 275

Hon'ble Judges : D.S. Dave, C.J;P.N. Shinghal, J

Bench : Division Bench

Advocate : M.M. Vyas, for the Appellant; Kan Singh, G.A. Sagarmal and J.G. Chhangani for Non-Petitioners (Nos. 3 and 4), for the Appearing Parties

Final Decision : Allowed

Judgement

Dave, C. J.

1. This is a writ application under Article 226 of the Constitution of India and it arises in the following circumstances.

2. The petitioner is a bus operator. He has got a permit to ply one bus on a route which is known as "Kota-Chambal-dam route". There are six more permit holders on the same route. Non-petitioners Nos. 3 and 4, namely, Lajpat Rai and Shantilal and a few others filed applications u/s 57 of the Motor Vehicles Act, which will hereinafter be referred as "the Act," for the grant of fresh permits on the said route. These applications were filed by them suo motu that is without any application having been invited by the authority. Those applications were published in the Rajasthan Gazette. The petitioner and other existing permit-holders filed objections to the grant of fresh permits. The Regional Transport Authority Kota fixed September 11 and September 12, 1963 for consideration of five applications including those of non-petitioners Nos. 3 and 4. They were heard in the meeting held on September 11 and Sept. 12, 1963. The objections of the existing operators were also heard. The applications for fresh permits were

not decided by the Regional Transport Authority because there were instructions from the State Transport Authority not to grant permits on A class route to any applicant except to the displaced operators or to the would be displaced operators.

In its resolution it was observed by the Regional Transport Authority that the applications for fresh permits including those of non-petitioners Nos. 3 and 4 may be kept pending. Aggrieved by this order non-petitioners Nos. 3 and 4 filed a revision application before the State Transport Authority u/s 64-A of the Act. That application was decided by the State Transport Authority on Dec. 18, 1963. It is this order whose validity is sought to be challenged by the present application. The impugned order is a short one and therefore it would not be improper to reproduce it here. It runs as follows:

"Heard arguments on merits of the case. The restriction imposed by S.T.A. banning the grant of permits on "A" class routes is relaxed in this particular case under the special circumstances and keeping in view the public inconvenience. The Revision is partially accepted and the case is remanded to R.T.A. Kota to deal with the applications of petitioners according to law. Order announced to party".

3. It is contended by the learned counsel for the petitioner that his client was an existing operator on the said route, that he was thus an interested party and he should have been impleaded as a respondent in the revision application. The only respondent in the revision application was the Regional Transport Authority Kota. Other existing operators whose interests were to be vitally affected were not impleaded as respondents and thus the revision application was incompetent.

4. It is next urged that the State Transport Authority had imposed a ban against the grant of fresh permits on A class routes in exercise of its powers u/s 44 of the Act and any order about its modification could be passed only under that section. Section 64-A is provided in the Act to enable the State Transport Authority to entertain and decide revision applications in those cases where an appeal does not lie u/s 64 of the Act. It is pointed out that under this section the State Transport Authority functions as a quasi-judicial authority and therefore the administrative order of the State Transport Authority could not be revised under this section on a revision application directed against the Regional Transport Authority alone.

5. In reply it is urged by learned counsel for respondents Nos. 3 and 4 that the interest of the petitioner is not adversely affected by the impugned order and therefore this Court need not interfere in its extra-ordinary jurisdiction.

6. We have given our consideration to this argument and we think that it is not tenable because the addition of every permit on the route is bound to affect the income of the existing operators including the petitioner. It may be next pointed out that in *Laxman Purshottam Pimputkar Vs. State of Bombay and Others*, it was observed by their Lordships of the Supreme Court, though in another connection, that "when an authority exercises its revisional powers it necessarily

acts in a judicial or quasi-judicial capacity". In our opinion these observations apply with full force to the revisional powers of the State Transport Authority u/s 64-A of the Act. Under these circumstances, it was incumbent on the part of non-petitioners Nos. 3 and 4 to implead in the revision application those persons as respondents whose interests were going to be affected and the revision application was certainly incompetent in the absence of the existing operators.

Moreover, the perusal of Ex. 3 shows that the State Transport Authority Rajasthan in its meeting held on June 2, 1962 had passed a resolution in pursuance of the powers conferred upon it u/s 44(3) of the Motor Vehicles Act, 1939 and thereby it had directed all the Regional Transport Authorities in Rajasthan to desist from granting fresh stage carriage permits on any A class route in their respective regions (except those routes lying in Bikaner region) in order to offer alternative routes to the displaced as well as would be displaced operators in view of nationalisation of a number of routes in the State. It was also observed that these directions shall continue to operate till the displaced as well as would be displaced persons are rehabilitated by due process of law. To this an exception was made by the same resolution that if the displaced operators do not accept alternative routes offered to them and the bus routes fall short of adequate services due to scope for more services, applications from other interested operators could be considered.

7. It is obvious from the said resolution that the authority restraining the Regional Transport Authorities from granting fresh permits on A class routes was exercised u/s 44(3) of the Act. The Regional Transport Authority had only carried out these directions when it passed its resolution on September 12, 1963. It could not therefore be said that the Regional Transport Authority had passed an order which was improper or illegal and which could be judicially revised u/s 64-A of the Act. In our opinion the State Transport Authority committed an error in setting aside the order of the Regional Transport Authority u/s 64-A of the Act and therefore its order is fit to be set aside. Before parting with the case we might make it clear that we do not mean to restrict the State Transport Authority from exercising its administrative powers under the law.

8. The writ application is therefore allowed and the order of the State Transport Authority dated December 18, 1963 is hereby set aside. In, the circumstances of the case the parties are left to bear their own costs.