
(1965) 03 RAJ CK 0008

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1792 of 1964

Mohanlal Mithalal Chowdhry

APPELLANT

Vs

Transport Appellate Tribunal and Another

RESPONDENT

Date of Decision : 05-03-1965

Acts Referred:

Motor Vehicles Act, 1939 — Section 47, 48(1)

Citation : AIR 1966 Raj 202 : (1965) RLW 380

Hon'ble Judges : Jagat Narayan, J

Bench : Single Bench

Advocate : M.C. Bhandari, for the Appellant; Chandmal Lodha, for the Respondent

Final Decision : Partly Allowed

Judgement

Jagat Narayan, J.—This is a petition under Article 226 of the Constitution by one Mohanlal Mithalal Chowdhry against an order of the R. T. A. granting a permit to Gopaldas, respondent No. 2 on Chittor--Doongla route, via Seti, Chouth-pura, Sawa, Chiksi Kanauj and Bhadesar which was confirmed by the T. A. T.

2. Respondent No. 8 filed an application for grant of a permit from Chittor to Doongla. via Shambhupura, Sawa, Chiksi, Kanauj and Bhadesar. This application was published. The Petitioner filed an objection against the grant of the permit. The R. T. A. eventually granted a permit from Chittor to Doongla, via Seti, Chouthpura, gawa, Chiksi, Kanauj and Bhadesar. This route overlaps the route of the petitioner from Chittor to Seti, from Chouthpura to Sawa and from Kanauj to Bhadesar.

3. The main contention of the petitioner in this writ petition is that in view of the proviso to Section 48(1) no permit could be granted to the respondent in respect of any part of the route not specified in his application. This contention was overruled by the T. A. T. on the ground that the grant of a permit with a slight modification of the route here and there cannot be said to be a grant in respect

of a route or area not covered by the application and that Section 48 (1) contemplates a modification of the route applied for while granting a permit.

4. Having heard the learned counsel for the parties I am of the opinion that the view taken by the T. A. T. is erroneous. Section 48 (1) runs as follows:--

"Subject to the provisions of Section 47, a Regional Transport Authority may, on an application made to it u/s 46, grant a stage carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit:

Provided that no such permit shall be granted in respect of any route or area not specified in the application."

5. A bare reading of the provision goes to show that the proviso lays down what modifications can be made while granting a permit. It provides that the route applied for cannot be modified so as to include any route or area not specified in the application. The proviso clearly applies to a portion of the route as well. If any portion of a route is included which is not applied for, then there is no opportunity to represent against it. Such an opportunity is mandatory as provided u/s 47,

6. The R. T. A. could not, therefore, modify the route so as to include any portion which was not applied for. The petitioner is adversely affected By the inclusion of the portions from Chittor to Seti and from Chouthpura to Sawa in the route of respondent No. 2 for which permit has been granted to him.

7. I consequently allow the writ petition in part and restrain respondent No. 2 from plying his stage carriage between Chittor and Sawa, via Seti and Chouthpur. The R. T. A. is directed to make the necessary corrections in the permit granted to respondent No. 2.

8. In the circumstances of the case, I leave the parties to bear their own costs of this writ petition.