

(1998) 11 AHC CK 0070

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 20263 of 1995

Mohd. Wajid Ali

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 10-11-1998

Acts Referred:

Motor Vehicles Act, 1988 — Section 68C

Citation : (1998) 11 AHC CK 0070

Hon'ble Judges : Binod Kumar Roy, J and R.K.Singh, J

Final Decision : Dismissed

Judgement

1. The three petitioners have come up with prayers to quash (i) the Resolution dated 2261994 passed by the Regional Transport Authority, Dehradun (Respondent No. 1) as contained in Annexure1(ii) the Notification dt. 2951993 as contained in Annexure7 and to command Respondent No. 1 to dispose of their applications for grantof permits for plying their vehicles on Muzaffar NagarJamuna BridgeSidkiDeobandSarwat Route.

2. The impugned notification (relevant part only) reads thus:

?No. 1635/XXX293 365 85,Dated Lucknow, May 29,1993

In exercise of the powers under subsection (2) of Section 100 of the Motor Vehicles Act, 1988 (Act No. 59 of 1988) and in viewof the directions given by the Hon''ble Supreme Court of India in civil appeal Nos. 1198, 1199, 1200 and 1201 of 1992, Sri Ram Krishna Verma A Ors. v. State of Uttar Pradesh, the Governor is pleased to approve the following scheme, the purpose of which was published in U.P. Gazette (Extraordinary) dated February 13,1988 with Notification No. 1239RW/1056 RW8, dated, February 13, 1986 under Section 68C of the Motor Vehicles Act, 1939 (Act No. 4 of 1939)

SCHEME

(a) The Uttar Pradesh State Road Transport Corporation shall commence to

operate Road Transport Services (State Carriage contract carriage, otherwise than taxi cab and bears cars) from 25286 or thereafter.

(b) The Road Transport Services (stage carriages, contract carriages other than taxi cab and bears cars) by the Uttar Pradesh State Road Transport Corporation shall be provided on the following routes of Meerut and Dehradun regions out of which some routes are interstate routes of U.P. and Delhi.

28. Muzaffarnagar Rohans Depban Nagal Saharanpur Sarganwa (Yamuna Bridge)

By order,

USHA CHATRATH

Pramukh Sachiv?

3. A perusal of the impugned Resolution shows following things:

(i) Prayer for grant to ply motor vehicle to all private operators on the route was rejected keeping in view the provisions of Chapter VI of the Motor Vehicles Act, 1988 as also the orders of this High Court.

(ii) In public interest S.R.T.C. was directed to increase its frequency on the Route in question.

(iii) As the Route in question is Interstate the Permit will be granted by the S.T.A. and thus the applications received from S.T.R.C. be sent to the Secretary, S.T.A Lucknow.

4. It is admitted by Mr. A.D. Saunders, the learned Counsel for the Petitioners that the route in question is nationalised one, yet the petitioners want a mandamus to be issued by this Court directing the concerned authority to grant them permits quashing the notification dated 2951993. He also admits that the Petitioners have not brought on the record copy/copies of the service reports, which would have shown the particulars of the manner showing how the notices were effected on the Petitioners. Even complete ordersheet has also not been appended inasmuch as Annexure 5 appears to be a note and not a certified copy of ordersheet or even assuming that it is a copy of the ordersheet then it does not contain the order dated 1261993 and onwards orders.

5. Mr. A.D. Saunders, learned Counsel for the petitioners made a solitary submission before us that as in another writ petition a learned Single Judge has stayed the operation of the notification hence the relief prayed for in this writ petition be granted without giving its number, name of the parties and the date of its disposal for our verification.

6. We wanted from Sri Saunders to show further any binding precedent that a decision rendered by a learned Single Judge of this Court will be binding on our Division Bench. He expresses his inability "in showing any such decision. He also expresses his inability in telling us the reasons given by the learned Single Judge for doing so. It is well settled by a catena of decisions of the Supreme Court that

decisions of smaller Benches are not binding on a larger Bench.

7. Mr. Saunders fails to convince us as to why the notification should be quashed or stayed by us in exercise of our extraordinary discretionary jurisdiction in this writ petition, which was filed in the end of July, 1995. We are also not impressed by the argument of Mr. Saunders that interim orders were granted in some cases staying the operation of the impugned Notification inasmuch as interim orders do not decide any issue finally nor any interim order has been placed before us deciding any issue so as to have any binding effect on us. In the instant case no interim relief was granted. Mr. Saunders does not inform us as to what happened to the permits of Respondent No. 5 by the S.TA. No foundational facts having been brought for our consideration to quash the impugned notification, accordingly, we are of the view that this writ petition is without any merit.

8. It is, accordingly, dismissed.

9. The office is directed to handover a copy of this order to Sri Sudhir Kumar Jaiswal, learned Standing Counsel within one week for its communication to Respondent No. 1. Petition dismissed.