
(1955) 09 RAJ CK 0013
In the Rajasthan High Court
Case No : Writ Petition No. 122 of 1955

Mohmmad Jamil and Another	Vs	APPELLANT
State Transport Authority, Rajasthan and Another		RESPONDENT

Date of Decision : 07-09-1955

Acts Referred:

Motor Vehicles Act, 1939 — Section 55, 57, 57(4), 60, 60(1)

Citation : AIR 1956 Raj 125 : (1956) RLW 184

Hon'ble Judges : K.L. Bapna, J;D.M. Bhandari, J

Bench : Division Bench

Advocate : M.M. Tewari, for the Appellant;

Final Decision : Dismissed

Judgement

Bapna, J.—This is a petition under Article 226, Constitution of India.

2. The petitioners are assignees of a permit granted by the R. T. A., Udaipur, for running a stage carriage on Baran-Chhipabarod-Chhabra route. They applied to the R. T. A. for curtailment of the route beyond Chhipabarod on the allegation that there was no motorable road from Chhipabarod to Chhabra.

The R. T. A. on 25-5-1954, recorded 3 resolution that the application for curtailment had been duly notified, but no objection had been received and, therefore, it was resolved that curtailment be sanctioned. The Kotah Transport Ltd. filed an appeal before the S. T. A., & the S. T. A. found that an objection had, as a matter of fact, been filed before the R. T. A. by the Kotah Transport Ltd., & that the R. T. A. had committed error in not deciding that objection.

An attempt was made by the Secretary R. T. A. to explain that "the document submitted by the Kotah Transport Limited was not considered as an objection, because it had not been stamped. That explanation was not accepted by the S. T. A. and it was decided by the S. T. A. that the appeal be partially accepted, and the case remanded to the R. T. A. for reconsideration of the matter in the light of the objection filed by the Kotah Transport Limited, and till then the order of the

R. T. A. regarding curtailment of the route, vide resolution No. 20(f) of 1954, be kept in abeyance.

It was also added that the respondents, meaning thereby the petitioners Mohammad Jamil and Kishan Gopal, would ply on the original route as mentioned in the permit, which was obtained by them from the original permit holders. Messrs. Mohammad Jamil and Kishan Gopal have come to this Court with this petition, and it is contended on their behalf that the appeal before the S. T.A. was incompetent, and that in any case the objection could not be considered because it had not been shown that a copy of the objection had been supplied to them as required by Section 57 (4), Motor Vehicles Act, and that it had been shown that the Kotah Transport Limited was a person aggrieved.

It was finally argued that the direction to continue to ply the bus was without jurisdiction and would prejudice the petitioners in proceedings that the R. T. A. may think of taking against the petitioners u/s 60, in case they do not comply with that direction.

3. It does not require much argument to see that the specification of the route in the permit is one of the conditions of the permit. Section 48, Clause (d), mentions the conditions which may be attached to a stage-carriage permit, and Sub-clause (iia) directs the specification of the routes which are to be used by the stage-carriage.

Section 64, Clause (b) permits appeal by "any person aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof. It was argued that the variation of the conditions of a permit only allows an appeal to be filed by the holder of the permit in respect whereof the conditions are varied.

Reliance is placed on -- M. Kali Mudaliar Vs. A. Vedachala Mudaliar and Others, There is no reasoning behind the case, and with great respect we are not prepared to take such a narrow view of Section 64 (b). It is very wide in its terms, and permits an appeal by any person aggrieved by any variation of the conditions of the permit, and does not restrict the right of appeal to the holder alone.

4. The requirement of furnishing a copy of the application is with respect to an application for a permit, and need not necessarily apply to an objection in respect of the variation of the conditions of the permit. That is, however, an objection which it is open to the petitioner to take before the R. T. A.

5. The contention that the Kotah Transport Limited has not been proved to be the person aggrieved is also of no force, because the objection, a copy whereof has been furnished with tin's petition, discloses in what manner they are likely to be affected. In any case the direction of the S. T. A. does not prevent the petitioner from urging that point before the R. T. A., because what has been directed by the S. T. A. is that the objection should be considered and not thrown out as if there

was no objection.

6. The last contention that he will be prejudiced by the last direction of the S. T. A. is also of no force. That last direction is only repetition of the preceding order setting aside the order of the R. T. A. and directing the R. T. A. to keep that order under abeyance.

If any proceeding is started u/s 60 for non-fulfillment of the condition of the permit, to wit, the plying of the stage-carriage throughout its entire route, the proviso to Sub-section (1) of Section 60, requires that an opportunity should be given to the holder of the permit to submit his explanation. It is, therefore, open to the petitioner to give any explanation, and it would be open to the R. T. A. to consider how far that explanation would be acceptable.

We may mention that the conditions of a permit specifying the route is one of the important conditions of the permit, and the R. T. A. has done well to publish the application and to invite objections, because in running a stage carriage, it is not only the permit-holder, but the inhabitants of the locality also and the persons providing transport facilities in that area who are equally interested in the result of such application.

7. This petition has no force, and is dismissed.

8. Learned counsel prayed for leave to appeal to the Supreme Court. The prayer is rejected.