
(2008) 02 CHH CK 0031
In the Chhattisgarh High Court
Case No : Writ Petition (C) No. 855 of 2008

M/s. Balaji Travels

APPELLANT

Vs

State Transport Appellate Tribunal and Another

RESPONDENT

Date of Decision : 18-02-2008

Acts Referred:

Motor Vehicles Act, 1988 — Section 69, 70, 71, 72(2)(xxii)

Citation : (2008) 2 MPJR 78

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : Amit Kumar Sharma, for the Appellant; Sumesh Bajaj, G.A., for the Respondent

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.

The Petitioner, being aggrieved by the order dated 14.08.2006 (Annexure P/2) passed by the State Transport Authority (for short "authority") and order dated 03.04.2007 (Annexure P/4) passed by the State Transport Appellate Tribunal (for short "STAT"), whereby the Petitioner was granted permit to run stage carriage from Jashpur Nagar to Rajgeer via Shankh, Gumla, Lohardaga, Kudu, Balumath, Bariyan, Adharamod, Chatre, Jori, Huntergunj and Gaya with certain conditions, and the appeal against the said order before the STAT, was also dismissed.

The facts, in nutshell, are that the Petitioner made an application for grant of stage carriage permit u/s 69, 70 and 71 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act, 1988"). The public notice was made inviting objections. No objection was received. Thus, the authority, vide order dated 14.08.2006 (Annexure P/2) granted permit to the Petitioner on the following conditions:

Being aggrieved by condition No. 4, the Petitioner preferred an appeal before the STAT. The STAT, after hearing the Petitioner, dismissed the appeal, holding that

no notice u/s 72(2) (xxii) is required as there was public notice and the Petitioner was heard on all the conditions.

Learned Counsel appearing for the Petitioner submits that the order, impugns herein, are bad in law as no conditions can be imposed on permit u/s 72(2) (xxii) of the Act, 1988, without giving one month's notice for varying conditions of the permit and/or for attaching further conditions. Learned Counsel relied on a decision dated 17.07.2006 of learned Single Judge of the High Court of Jharkhand at Ranchi, passed in W.P. (C) No. 3862/2005 (Giribala Jha v. The State of Jharkhand & ors).

I have heard learned Counsel appearing for the Petitioner as well learned Counsel appearing for the State. Section 72(2) (xxii) of the Act, 1988 provides that the Regional Transport Authority may, after giving not less than one month's notice, vary the conditions of the permit and/or attached to the permit further conditions. In the identical matter, wherein Section 48(3) (xxi) of the Motor Vehicles Act, 1939, which is para materia to the Section 72(2) (xxii) of the Act, 1988, the Supreme Court observed that the condition of one months notice is applicable in case of the permit granted by the Regional Transport Authority. Since the permit was granted by the State Authority, the power to vary the same vested in him. (See B.S. Padmavathamma v. A.P. State Road Transport Corporation and others, 1996 9 SCC 410 . Section 48 (3) (xxi) of the Motor Vehicles Act, 1939, reads as under:

That the Regional Transport Authority may, after giving notice of not less than one month:

- (a) vary the conditions of the permit;
- (b) attach to the permit further conditions:

Provided that the conditions specified in pursuance of Clause (i) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometres, and any variation within such limits shall be made only after the Regional Transport Authority is satisfied that such variation will serve the public convenience and that if it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof.

Section 72(2) (xxii) of the Motor Vehicles Act, 1988, reads as under:

That the Regional Transport Authority may, after giving notice of not less than one month -

- (a) vary the conditions of the permit;
- (b) attach to the permit further conditions:

Provided that the conditions specified in pursuance of Clause (i) shall not be varied so as to alter distance covered by the original route by more than 24 kilometres, and any variation within such limits shall be made only after the

Regional Transport Authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof;

Thus, the contention of the Petitioner that the provisions of Section 72(2) (xxii) of the Act, 1988, shall be applicable to the State Transport Authority also is rejected as the bare perusal of the provisions of Section 72(2) (xxii) of the Act, 1988 makes it clear that the same is applicable to the Regional Transport Authority only. In the present case, the State Authority has attached certain conditions, thus the said provision is not applicable in the present case.

Accordingly, the order passed by the State Transport Authority dated 14.08.2006 (Annexure P/2) as well the order dated 03.04.2007 (Annexure P/ 4) passed by the State Transport Appellate Tribunal, are legal and proper and warrant no interference. Thus, this petition is dismissed. No order as to costs.