
(1991) 07 KL CK 0005
In the High Court Of Kerala
Case No : W.A. 686/91

M.S. Krishnan

APPELLANT

Vs

The Regional Transport Authority and Others

RESPONDENT

Date of Decision : 16-07-1991

Acts Referred:

Kerala Motor Vehicles Rules, 1989 — Rule 145(6)
Motor Vehicles Act, 1988 — Section 80(3)

Citation : (1991) 2 KLJ 341

Hon'ble Judges : U.L. Bhat, Acting C.J.; P. Krishnamoorthy, J

Bench : Division Bench

Advocate : K. Radhakrishnan, for the Appellant; Government Pleader, for the Respondent

Judgement

U.L. Bhat, A.C.J.

1. Petitioner in O.P. No. 6618 of 1991 being aggrieved by the dismissal of the petition has filed the writ appeal.
2. Appellant herein applied for regular permit on the Chalissery-Palakkad route. That was granted to him on 8th May 1990. On 11th May 1990 he applied to the Regional Transport Authority for extension of permit from Chalissery to Guruvayur, a distance of 19 kms. The R.T.A. dismissed his application under Ext. P-1 stating that the Authority was not convinced about the circumstance warranting extension. His appeal before the S.T.A.T. was dismissed under Ext. P-5. The Tribunal took the view that there was nothing to show that between the date of issue of the regular permit and the date of application for extension, transport requirements of the sector have changed or that these requirements have been overlooked earlier. The Tribunal also took the view that the mere fact that the extension would be beneficial to pilgrims who go to Guruvayur temple cannot be the sole reason to recommend extension since at best that would be only a ground to allow separate permit in such a sector. The Tribunal also commented on the fact that though it was open to him to originally ask for a

regular permit from Palakkad to Guruvayur, he had asked for permit only from Palakkad to Chalissery and no new circumstances within the meaning of Rule 145(6) of the Kerala Motor Vehicles Rules had been presented. This judgment was challenged unsuccessfully in the original petition.

3. The basic facts are that on 8th May 1990 Appellant was granted regular permit for the route Palakkad to Chalissery on 11th May 1990 he applied for extension of the permit from Chalissery to Guruvayur, a distance of 19 kms. and that has been rejected concurrently by the statutory authorities as well as the learned Single Judge.

4. Section 80(3) of the Motor Vehicles Act allows an application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or by altering the route or routes or area covered by it. The application has to be treated as an application for the grant of a new permit. The proviso indicates the limit of distance in the case of variation and in the case of extension. The proviso also states that variation or extension shall be made "only after the 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 extended or any part thereof". A copy of the application has not been produced in this Court to show what exactly were the averments made therein. It is therefore not possible for us to verify whether public convenience or any inexpediency in granting a separate permit in respect of the varied route were averred in the application.

5. Rule 145(6) of the Kerala Motor Vehicles Rules deals with variation or extension. It says that the Transport Authorities shall in deciding whether to vary or extend a route, have regard to the following matters, namely: variation or extension of route may be allowed when (i) new circumstances have arisen since the route was decided, such as the construction of a bridge, or road; (ii) the transport requirements of the area to be served were overlooked or have changed. The new circumstances contemplated are not merely the construction of a bridge, or road but all other developments of a similar nature. Presence of new circumstance as well as ignoring the transport requirements on the earlier occasion or the change in the transport requirements are all aspects which relate to public convenience in the proviso to Section 80(3).

6. It is argued by learned Counsel for the Appellant that Sub-rule (6) of Rule 145 is not exhaustive. It is quite unnecessary for us to decide this question since even assuming that it is not exhaustive, the case of the Appellant must come squarely under the proviso to Section 80(3). In other words he has to satisfy the transport authority about the public convenience as the ground of extension and that it is not expedient to grant separate permit in respect of the varied or extended route. On both these aspects there is only the mere argument before us, namely that needs of the pilgrims to Guruvayur temple will be served by extension. But that does not answer the question why the Appellant did not seek originally permit on the route Palakkad-Guruvayur.

7. Learned Single Judge commented on the fact that within three days of the grant of original permit extension had been sought for. The short interval between the date of sanction, of permit and the date of application for extension would certainly justify an examination of the question as to why in the earlier application for grant of permit route upto Guruvayur had not been, suggested or whether any changes had taken place subsequently. Learned Single Judge has considered all the aspects of the matter in their correct prospective. We find no ground to interfere and accordingly dismiss the appeal.