(1981) 02 KAR CK 0051

In the Karnataka High Court

Case No : Writ Petition No. 3997 of 1979

Nabi Sad Akber Saheb Mulla — APPELLANT

Vs

The Commissioner for Transport in Karnataka, Bangalore and Another — RESPONDENT

Date of Decision : 17-02-1981

Acts Referred:
Constitution of India, 1950 — Article 226
Karnataka Motor Vehicles Taxation Act, 1957 — Section 15, 15 a

Citation : AIR 1981 Kar 211

Hon'ble Judges : M.P. Chandrakantaraj Urs, J

Bench : Single Bench

Advocate : C. Narasimhachar, for the Appellant; V.G. Dharma Kumar, for the Respondent

Judgement

1. Petitioner is the owner of public carrier vehicle bearing Registration No. MYJ 5427. The Fitness Certificate of that vehicle expired on 5-2-1977. However, the vehicle was seized on 5-8-1978 by the Inspector of Motor Vehicles attached to the 2nd respondent''s office. In spite of the protests of the Petitioner the vehicle was handed over to Police custody with a direction that the vehicle may be released only in the event of the petitioner producing Form No. 28 Prescribed under the Rules framed under the Karnataka Motor Vehicles Taxation Act (hereinafter referred to as the ''Act''). The instructions issued to the Police Sub-Inspector, Bagalkot, by a letter dated 17-9-1978 by the 1st respondent that the vehicle should be kept in detention until the petitioner paid arrears of tax in a sum of Rs. 11,696-85 for the period 1-1-77 to 31-10-78 and the current taxes, was copied to the petitioner which has been produced at Exhibit A. Aggrieved by the letter at Exhibit A, the petitioner filed a revision petition before the 1st respondent-Commissioner for Transport, in Karnataka, Bangalore. That revision petition came to be dismissed on 30-3-79 observing that the case did not warrant the exercise of the power under S. 15-A of the Act as the petitioner could avail himself of the right of appeal under S. 15 of the Act, against the

Demand Notice issued by the 2nd respondent. Aggrieved by the same, the petitioner has approached this Court under Art. 226 of the Constitution for relief.

2. Learned counsel for the petitioner has taken me through the provisions of the Act. Section 15 and Section 15-A of the Act are independent provisions. An appeal against any order of the Taxation Authority is provided to the prescribed authority within the prescribed time and in the prescribed manner. S. 15A which was put in the statute by Karnataka Act No. 35/1957 by way of an amendment of the Act provides that the ''Commissioner for Transport'' may either of his own motion or on an application made by any aggrieved person, call for and examine the records of any proceedings under the Act of any authority subordinate to him for the purpose of satisfying himself as to the correctness, legality, or propriety of such proceedings and may either annul, reverse, modify or confirm such order or pass such order as he may deem fit.

3. In the instant case, counsel for petitioner pointed out that Commissioner is not a prescribed authority to hear appeal under S. 15 of the Act. It is his argument that S. 15-A confers very wide revisional powers on the Commissioner and it is independent of the power exercised by the prescribed authority u/s 15 of the Act.

4. It is clear from the provisions made for appeal and revision in the Act that they are two independent remedies and there is no bar under S. 15-A for the Commissioner to exercise his jurisdiction merely on the ground that appeal also can be filed against the order sought to be revised. Similar is the view taken by Jagannatha Shetty, J., in Syed Abdul Rasheed v. The Commissioner of Transports, Bangalore (Writ Petn.

No. 2443 of 1979 decided dated 2-4-1979). In this view of the matter, the 1st respondent-Commissioner for Transport by his order at Exhibit ''B'' failed to exercise the jurisdiction vested in him for a reason which is extraneous to the power to be exercised by him u/s 15-A of the Act.

5. In the result, his order suffers from manifest error of jurisdiction and is liable to be quashed. It is accordingly quashed. However, the matter is remitted to the lst respondent to dispose of the revision application of the petitioner in accordance with law on merits within two months from today. It will not be necessary for the Commissioner to issue a fresh notice to the revision petitioner who is the petitioner in these proceedings. The petitioner will appear before the lst respondent-Commissioner for Transport on 12-3-1981.

Writ petition is allowed. Rule is made absolute. There will be no order as to costs.

6. Petition a1lowed.