
(2013) 06 UK CK 0042

In the Uttarakhand High Court

Case No : Writ Petition No. 323 of 2008 (M/S)

Nirmal Tiwari

APPELLANT

Vs

State Transport Appellate Tribunal and Another

RESPONDENT

Date of Decision : 12-06-2013

Acts Referred:

Citation : (2013) 2 UC 1386

Hon'ble Judges : B.S. Verma, J

Bench : Single Bench

Judgement

B.S. Verma, J.—Heard Mr. K.N. Joshi, learned counsel for the petitioner and Mr. Pankaj Tangwan, learned counsel for the respondent No. 1. None is present for respondent No. 2 inspite of sufficient service. By means of this writ petition, the petitioner has sought following relief:-

- i) Issue a writ, order or direction in the nature of certiorari to quash the order dated 8.7.2005 (filed as Annexure-3) passed in Revision No. 3 of 2005 and order dated 12.12.2007 passed in Misc. Case No. 22 of 2008 passed by respondent No. 1 (Annexure No. 8).
- ii) Issue a writ, order or direction in the nature of mandamus directing the respondents to permit the petitioner to operate the bus in between Pulbhatta (Kichha) Sitarganj-Nanak Sagar-Khatima-Melaghat.
- iii) Issue any suitable writ, order or direction which this Hon"ble Court may deem fit and proper in the circumstances of the case.
- iv) Award the cost of the writ petition to the petitioner.

2. The case of the petitioner is that he was granted permit to run and operate bus in between Nanak Sagar-Khatima 13 Kms. route by the Regional Transport Authority Kumaun Region vide order dated 16.12.2004, Against the order dated 16.12.2004, respondent No. 2 Sri Satnam Singh, an existing operator, filed a revision before State Transport Appellate Tribunal, Dehradun. Vide order dated

8.7.2005, respondent No. 1 passed an ex-parte order and allowed the revision of respondent No. 2. Recall application of the order dated 8.7.2005 was also moved by the petitioner, which was also dismissed. Hence, this writ petition has been filed by the petitioner.

3. According to the petitioner, he was not heard before passing the impugned order dated 8.7.2005. As soon as he came to know about the ex-parte order, he moved recall application, which was also dismissed by the learned Tribunal without considering the fact that the revision was not maintainable on the behest of the existing operator.

4. Learned counsel for the petitioner has relied upon a Full Bench Judgment of Kerala High Court, Binu Chacho Vs. R.T.A., (Full Bench) wherein it was held that the existing operator cannot invoke revisional jurisdiction on sole ground that grant of permit to opposite party prejudicially affects his rights.

5. Learned counsel has further placed reliance upon a judgment of the Hon''ble Apex Court in the case of Mithilesh Garg, Vs. Union of India and others etc. etc., wherein it was held that the existing operator has no right to challenge issuance of permit.

6. In view of the above well-settled proposition of law, the revision filed by respondent No. 2 was not maintainable. Learned Tribunal has committed manifest error of law in allowing the revision since it was not maintainable. For the reasons recorded above, the writ petition is allowed. Impugned order dated 8.7.2005 passed in Revision No. 3 of 2005 and order dated 12.12.2007 passed in Misc. Case No. 22 of 2005 by respondent No. 1 are quashed. No orders are quashed. No order as to costs.