

(1970) 08 AP CK 0003

In the Andhra Pradesh High Court

Case No : Writ Petition No. 227 of 1969

O.C. Ranganna and Another

APPELLANT

Vs

The Secretary, Regional Transport Authority, Anantapur and
Another

RESPONDENT

Date of Decision : 21-08-1970

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1939 — Section 48, 64

Citation : AIR 1971 AP 265

Hon'ble Judges : Narasimham, J

Bench : Single Bench

Advocate : K. Amareswari and A.S.C. Bose, for the Appellant; Govt. Pleader, K. Mangachary and T. Balireddy, for the Respondent

Judgement

Narasimham, J.—This is a petition under Art. 226 of the Constitution directed against the variation of the route for the stage carriage, A.P.A. No.1885 granted by the Regional Transport Authority in the proceedings of the Secretary, D. Dis. No.2062/A1/68, dated 7th January, 1969.

2. The facts are these: The petitioners are transport operation plying stage carriage in the Districts of Anantapur and Cuddapah. They ply on inter district routes and on the common sector, Kondapuram to Tadapathri, a distance of 18 miles The 2nd respondent herein, a transport operator, plies the stage carriage A.P.A. No.1885 on the route "Tadapathri to Kalyandurg". He applied for a variation of the route to the Regional Transport Authority, Anantapur, by an extension from Tadapathri to Proddatur. The Regional Transport Authority, Anantapur, purported to grant the variation by a resolution dated 20-9-1968 in his Rc. No. 2062/A1/68. It would appear that the resolution was forwarded to the Regional Transport Authority, Cuddapah, because part of the route lay in that region; and the Regional Transport Authority, Cuddapah, after notification, agreed to extension up to Kondapuram only by a resolution dated 19-12-1968. Thereafter the impugned proceedings were issued granting the variation of the

route, that is to say, the existing route "Tadapathri to Kalyandurg" is varied as "Kondapuram Railway Station to Kalyandurg". The affidavit of the petitioners states, firstly that this variation of the route is different from what was applied for by the 2nd respondent, and secondly that the Secretary, Regional Transport Authority, Anantapur, should not have granted the variation of the route by the impugned proceedings as there was an prior occurrence therefore as contemplated under Rule 209 of the Andhra Pradesh Motor Vehicles Rules, 1964.

3. A counter has been filed by the 2nd respondent that it was open to the Authority, while granting the concurrence or while countersigning the permit, to restrict the area of operation and attach any condition which it have imposed if it granted the permit, and further that all buses plying along Gundlur touch Kondapuram Railway Station.

4. At the hearing of the petition, I heard the Counsel for the petitioners and the 2nd respondent and the learned Government Pleader, and it is common case before me that the matter of variation of permit has been dealt with u/s 63 of the Motor Vehicles Act (Act IV of 1939), and not a case of prior concurrence obtained under R. 209 of the Andhra Pradesh Motor Vehicles Rules, 1964. The difference between the two procedures is vital, as in the one case u/s 63 of the Act the permit shall not be valid unless countersigned by the Regional Transport Authority, of the other region, whereas under the Rule, the Regional Transport Authority of any one region may grant a permit valid in any other region within the State without the countersignature of the Regional Transport Authority of the other region or of each of the other regions concerned. If so much is beyond controversy the objection of the petitioners has to be upheld that the permit issued pursuant to the impugned proceedings would not be valid till countersigned by the Regional Transport Authority, Cuddapah. It has been as a fact verified that it has not been so countersigned. Secondly, the reference in the impugned order to concurrence granted by the Regional Transport Authority, Cuddapah, is inapt. The impugned proceedings have therefore to be quashed.

5. The second objection also to be upheld that the impugned proceedings are contrary to Section 48 of the Act, which states expressly that no permit shall be granted in respect of any route not specified in the application. The applicant i.e., the 2nd respondent herein, has applied for a route from Tadapathri to Cuddapah via Gundlur and not via Kondapuram, and so the grant of a permit via Kondapuram offends the express provision of Section 48 of the Act. On this ground also the impugned proceedings have to be quashed.

6. The result, therefore, is that the impugned proceedings are quashed and the 1st respondent is directed to pass appropriate orders after following the correct procedure in the light of the observations made hereinbefore. The writ petition succeeds to this extent and is allowed. Parties will bear their own costs.

7. Petition allowed.