
(1956) 09 KL CK 0008
In the High Court Of Kerala
Case No : A.S. No. 425 of 1955

P.I. Scaria

APPELLANT

Vs

P.K. Krishnan Nair and Others

RESPONDENT

Date of Decision : 28-09-1956

Acts Referred:

Motor Vehicles Act, 1939 — Section 57, 57(7)

Citation : (1956) 09 KL CK 0008

Hon'ble Judges : K.T. Koshi, C.J.; M.S. Menon, J

Bench : Division Bench

Advocate : K.S. Sebastian, for the Appellant; K. Neelacanta Menon, for Respondent No. 1, K.T. Thomas, for Respondent No. 2, Mani J. Meenattoor and V. Rama Shenoi, Govt. Pleader for Respondent Nos. 4 and 5, for the Respondent

Judgement

M.S. Menon, J.—The Petitioner in. O. P. No. 154 of 1955 is the Appellant before us. The 4th Respondent, the Road Traffic Board, Kottayam, invited applications for the grant of two stage carriage permits on the route, Moovattupuzha Thodupuzha, by the following notification dated the 1st November 1954 and published in the Travancore-Cochin Government Gazette dated 9-11-1954:

Applications are invited for the grant of stage carriage permit for two buses to run services between Moovattupuzha and Thodupuzha from intending operations so as to reach the office of the undersigned within 15 days from the date of publication of this notification in the Government Gazette. The applications should be in the prescribed form with the required fee u/s 57 of the Indian Motor Vehicles Act IV of 1939. Applications received after the prescribed date will not be considered.

Seventeen persons including the Petitioner filed applications and the 4th Respondent granted three permits, one each to Respondents 1 to 3.

2. The main contention urged before us is that having Invited applications for two permits only the 4th Respondent had no jurisdiction to grant three permits

and that the order made should be quashed on that ground. Varadaraja Iyengar, J., who dismissed O. P. No. 154 of 1955 dealt with the matter as follows:

The first objection was that there was no warrant in the Motor Vehicles Act or in the Rules for the Road Traffic Board to grant permits for three buses in proceedings started by inviting applications for two only. Reference was made to the initial notification issued by the Road Traffic Board on 1-11-1954. This argument is however met by the counter-argument that the notification was not issued in pursuance to any legal formality provided for by any section of the Motor Vehicles Act. The power of the Regional Transport authority to "limit the number of stage carriages" u/s 48 was relied on in this connection. But that again comes in for exercise only at the later stage of the disposal of applications for stage carriage permits after consideration of various matters and not at any preliminary stage. The notification in question must therefore be taken to be only in the nature of a proposal made by the Board merely in its executive capacity and for purpose of administrative convenience. It was open to the Board when it disposed of the applications to reduce or increase the number of permits as the situation demanded. The liberty of the Board to fix greater or lesser number of permits than had been originally proposed in the notification inviting applications cannot, in my opinion, be questioned.

3. The learned Counsel for the Appellant has not been able to invite our attention to any provision of the Motor Vehicles Act, 1939, (Central Act IV of 1939) or of the Travancore-Cochin Motor Vehicles Rules, 1952, which will in any way indicate that the 4th Respondent is confined to the number of permits indicated in the notification and that a grant of permits beyond that number will be without jurisdiction.

4. Section 57(7) of the Motor Vehicles Act, 1939, provides:

When a Regional Transport authority refuses an application for a permit of any kind, it shall give to the applicant in writing its reasons for the refusal

ancRt was suggested to us that Ext. A, the order of the Transport Authority dated 30-3-1955 is not in conformity with the said Sub-section. We cannot agree. Reasons are given both in Ext. A, the order of the Road Traffic Board, Kottayam, and in Ext. B, the order of the C. R. T. B., Trivandrum, confirming the order of the Road Traffic Board, Kottayam, and the fact that Ext. A could with advantage have been written in a more detailed and elaborate fashion is no reason to hold that it does not comply with the provisions of Sub-section (7) of Section 57 of the Motor Vehicles Act, 1939.

5. It follows that the dismissal of O. P. No. 154 of 1955 by Varadaraja Iyengar, J., has to be sustained and that this appeal should be dismissed judgment accordingly.

6. The Petitioner will pay the costs of the Respondents, advocate's fee Rs. 50 to each dents, 1, 2 and 3 and an equal amount Respondents 4 and 5 together.