
(1975) 11 AHC CK 0021

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 9919 of 1975

Prabodh Kumar and Others

APPELLANT

Vs

The State Transport Authority

RESPONDENT

Date of Decision : 11-11-1975

Acts Referred:

Motor Vehicles Act, 1939 — Section 42, 43, 44(4)

Citation : AIR 1976 All 214

Hon'ble Judges : R.L. Gulati, J

Bench : Single Bench

Advocate : L.P. Naithani, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

R.L. Gulati, J.—The petitioners have applied for grant of Taxi cab permits in respect of station wagons. The applications were made on 14th August, 1975, but those applications have not yet been disposed of. The petitioners have stated that the permits are being withheld because of administrative orders issued by the State Transport Authority prohibiting the grant of taxi cab permits in respect of station wagons. This order is dated 22/23rd March, 1974. The petitioners have challenged this order and have prayed for a writ of mandamus commanding the respondents to consider and dispose of the applications of the petitioners for taxi cab station wagon permits and to issue the same to them.

2. No counter-affidavit has been filed to controvert the averments contained in the writ petition. The learned Standing Counsel has sought to justify the impugned order with reference to Section 44 (4) of the Motor Vehicles Act, which provides that for the purposes of exercising and discharging the powers and functions specified in Sub-section (3) State Transport Authority may subject to such conditions as may be prescribed, issue directions to any Regional Transport Authority and the Regional Transport Authority shall in the discharge of its functions under this Act, give effect to and be guided by such directions. The contention of the learned counsel for the petitioner is that the instructions

contemplated by Section 44 (4) of the Act can only be administrative in nature and cannot interfere with the quasi-judicial functions of the Regional Transport Authority as provided in Section 50 of the Act, Section 50 prescribed the procedure for considering the applications for contract carriage permits and Section 51 prescribes that a Regional Transport Authority may on an application made to it u/s 49 grant a contract carriage permit in accordance with the application or with such modification as it deems necessary or refuse to grant such a permit. Sub-section (2) of Section 51 then enumerates the conditions which the Regional Transport Authority may impose while granting a stage carriage permit. It is urged that the powers contained in Sections 50 and 51 of the Act are quasi-judicial in nature. The applications for grant of permits are to be disposed of after taking into considerations the various circumstances and after hearing the parties concerned. The State Transport Authority has no jurisdiction to issue any administrative direction to control the powers of the Regional Transport Authority in that behalf. A similar question arose before the Supreme Court in *B. Rajagopala Naidu Vs. State Transport Appellate Tribunal and Others*, with respect to the ambit and scope of powers to issue directions and instructions by the State Government u/s 43-A of the Act. This is what their Lordships observed in paragraph 16:--

"Besides, the two preceding sections, Section 42 and Section 43 and Section 44 which follows support the argument that the field covered by Section 43-A like that covered by Sections 42, 43 and 44, is administrative and does not include the area which is the subject-matter of the exercise of quasi-judicial authority, by the relevant Tribunals."

These observations leave no room for doubt that the powers conferred upon the State Transport Authority u/s 44 as also under Sections 42 and 43 are administrative in nature and cannot encroach upon the jurisdiction of the Regional Transport Authority in the matter of grant of permits, which is admittedly of a quasi-judicial nature. It follows that the impugned resolution prohibiting the Regional Transport Authority to grant taxi cab permits in respect of station wagons is clearly outside the ambit of Section 44 (4) of the Act. The State Transport Authority can no doubt issue directions in respect of policy matters and other administrative matters but it can-not issue a blanket order prohibiting the grant of permits altogether.

3. That apart, the impugned order does not disclose any reason for the general prohibition in the matter of issue of taxi cab permits in respect of station wagons nor has any counter affidavit been filed to disclose such reason. In the circumstances the argument of the learned standing counsel that the impugned order was based upon a policy matter decided by the State Transport Authority in view of the fact that already too many permits had been issued in the State of Uttar Pra-desh. This is a conjecture on behalf of" the learned Standing Counsel not supported by any material or averment.

4. For the reasons stated above this petition succeeds and is allowed. The

resolution of the State Transport Authority dated 22/23rd March, 1974 (contained in Annexure "2" to the writ petition) is quashed. The respondents are directed to take up the applications of the petitioners and to grant them permits in case the other requirements of law are satisfied. The petitioners are entitled to costs.