

(1969) 07 CAL CK 0018
In the Calcutta High Court
Case No : C.R. No. 793 (W) of 1965

Pravash Ch. Ghose and Others

APPELLANT

Vs

R.T.A., Midnapore and Others

RESPONDENT

Date of Decision : 11-07-1969

Acts Referred:

Motor Vehicles Act, 1939 — Section 47(3)

Citation : 74 CWN 161

Hon'ble Judges : A.K. Sinha, J

Bench : Single Bench

Advocate : Ranadeb Chaudhuri and Madan Mohan Saha, for the Appellant; Satish Chandra Roy and Mrs. Priti Roy, for the Respondent

Final Decision : Allowed

Judgement

A.K. Sinha, J.—In this Rule the petitioners pray for quashing a resolution dated 19th June, 1965 of the Regional Transport Authority, Midnapore, passed at its meeting dated 10th July, 1965. The facts stated by the petitioners briefly are: The petitioners Nos. 1 to 10 are the sole operators of the Ghatal-Pashkura route in the district of Midnapore on the basis of stage carriage permits issued by the opposite party on or about May 4, 1960. Petitioner No. 11 is the association of the said operators registered under the Indian Trade Union Act, 1926 having its office at Ghatal in the district of Midnapore. Its object, inter alia, was to safeguard the interests of its members viz. the petitioners Nos. 1 to 10. On the basis of the said permits the petitioners Nos. 1 to 10 are plying buses transporting passengers from Ghatal to Pashkura and vice versa according to the time table sanctioned by the respondent on or about September 11, 1963. Originally petitioners Nos. 1 to 10 were allowed to ply on the said route on the transshipment basis in view of a bridge which was under construction at a middle station known as Khukhurda. The bridge was opened on or about June 1964 for through service and since then the petitioners have been plying buses directly between the stations Ghatal and Pashkura. Since some years past there has

been due to the establishment of colleges at Ghatal and Pashkura some congestion of school and college students at special hours between 9 a.m. to 10 a.m. and 4 p.m. to 5 p.m. The petitioners moved the Regional Transport Authority for sanction of plying some shuttle services during office hours and the secretary of the respondent was requested to accord necessary sanction. On June 19, 1965 the petitioners Nos. 1 to 10, the operators of the route and petitioner No. 11 submitted a memorandum to the respondent stating that if revised timings for through service were allowed the problem of congestion during office hours would be solved and it was, therefore, fair and proper that workings under the revised timings for through service might be watched for some reasonable period of time before any sanction is taken. It was also stated that if any action was taken the petitioners would be placed to serious loss. Without considering this objection the Regional Transport Authority, Midnapore, passed a resolution declaring additional five vacancies in the Ghatal-Pashkura route. On the next meeting on 10th July, 1965 the Regional Transport Authority, Midnapore resolved, inter alia, in respect of Agenda No. 1 confirming all the resolutions passed on the 19th June, 1965 including the resolution referred to in Annexure F. On or about 15th July, 1965, the petitioners came across a notice hung up in the notice board of the Regional Transport Authority, Midnapore, inviting applications for five Stage Carriage permits for Ghatal-Pashkura route so as to reach the respondent by 20th August, 1965. That is how the petitioners, in short, felt aggrieved by the two resolutions-Annexure F and Annexure J-passed by the Regional Transport Authority, respondent No. 1, and obtained the present Rule.

2. Upon these facts quite a number of grounds were taken by Mr. Chaudhuri, learned Counsel for the petitioners, pressed only one point. The point was that the Regional Transport Authority passed the resolution fixing the limit of stage carriage permits to 15 on the disputed route in place of existing limits of 10 permits without considering the objections filed by the petitioners.

3. In the affidavit-in-opposition in paragraph 6 on behalf of the respondent it has been stated as follows:

With reference to the statements made in paragraph 4 of the petition, I say that it does not appear from the office records that the alleged representation of the petitioners forwarded by the Sub-Divisional Officer, Ghatal was received by the Regional Transport Authority, Midnapore.

4. From the above statements it seems to be clear that the only stand taken by the respondents was that the objections as alleged to have been filed by the petitioners were not received in the office of the Regional Transport Authority. At the hearing, however, Mr. Chaudhuri, learned Counsel for the petitioners, produced before me an information slip given to the Regional Transport Authority from which it appears that certain memo, dated July 2, 1964 was received in the office of the Regional Transport Authority on July 17, 1964. The details of these objections are also given by the petitioners in Bengali in this information slip. But

Mr. Roy, however, firstly contended that these objections were not relevant. Secondly, he submitted that there was no question of hearing such objections at the time when the limits of the bus route were raised from 10 to 15 on the disputed route.

5. So far as the first contention is concerned it is clear that an objection was filed. It is also clear from the impugned resolution that such objections were not considered, but it appears from paragraph 10 of the affidavit-in-opposition that a copy of certain objections sent through S.D.O., Ghatal was received containing the proposal of the petitioners for alteration to time table with increased number of trips and that was approved by the R.T.A. at its meeting dated July 10, 1965. It is not clear how five vacancies on the same route could be declared if such time table was approved with increased trip to meet the growing need of passengers. Clearly, therefore, the objections raised by the petitioners were not considered when the impugned resolution was passed.

6. Regarding the second contention the argument advanced by Mr. Roy is misconceived. On a fair reading of the provisions of section 47(3) together with 47(1) of the Motor Vehicles Act, 1939, it seems to be clear that even in fixing the limits of the stage carriage on a particular route, the objections of the operators operating on that route must be considered. See, *Abdul Mafin v. Rara Kailash*, AIR 1963 S.C. 64. That being so, I do not find any substance in the contention raised by the respondents since the objections of the petitioners, clearly, were not heard by the Regional Transport Authority, the impugned resolutions must be held to be invalid.

7. The result is, the petition succeeds. The impugned resolutions are quashed. But I make it clear that this will not prevent the Regional Transport Authority to consider the objections which are already filed by the petitioners in accordance with law and then take such steps as it is entitled to take. I also make it clear that if the objections are not traceable from office records of the R.T.A. the petitioners will be entitled to file a copy of such objection before the R.T.A., Midnapore within four weeks from the receipt of notice from the R.T.A. by the petitioner No. 11 and on receipt of such copy of objection the R.T.A. will consider such objection and take such decision as it is entitled to take. If in spite of such notice the petitioner fail to file any such objection the R.T.A. will decide the matter in absence of the petitioners in accordance with law. The Rule is made absolute to the extent indicated above. There will be no order as to costs.

Let a writ in the nature of mandamus and certiorari issue accordingly.