
(1996) 04 DEL CK 0041

In the Delhi High Court

Case No : Civil Writ Petition No. 797 of 1996 and Civil Miscellaneous Appeal No. 1700 of 1996

Raj Kumari

APPELLANT

Vs

State Transport Appellate Authority

RESPONDENT

Date of Decision : 18-04-1996

Acts Referred:

Motor Vehicles Act, 1988 — Section 68(5)

Citation : (1996) 3 AD 417 : (1996) 63 DLT 179 : (1996) 38 DRJ 381 : (1996) 114 PLR 27 : (1996) RLR 262

Hon'ble Judges : A.D. Singh, J

Bench : Single Bench

Advocate : Rani Chhabra and Adarsh Goel, for the Appellant;

Judgement

Anil Dev Singh, J.

(1) This is a writ petition whereby the petitioner seeks quashing of the order dated January 30, 1996 passed by the State Transport Appellate Tribunal in appeal No-296/95 and also order dated December 14, 1995 passed by the Commissioner-cum- Secretary, Government of N.C.T. of Delhi. The petitioner was granted Stage Carriage Permit in respect of bus No.DL-1P-2285 by the State Transport Authority. On October 21, 1995 at about 4.35 p.m. the bus of the petitioner was found to be parked diagonally Along with another Red Line Bus and the staff of both the buses were having a scuffle with one another on the road. An Fir was lodged against the driver of the bus under Sections 160/283/504 Indian Penal Code at Police Station, Mayapuri. It appears that the driver of the petitioner was convicted and was misrepresent

(2) I have considered the submission of learned counsel for the petitioner. Chapter V of the Act deals with the control of the transport vehicles. Section 66(1) of the Act provides that no owner of the vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the

conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used. It appears that the object of Section 66(1) is to control and regulate the transport vehicles on the road. Section 68(1) and (2) deal with the constitution of the State and Regional Transport Authorities. Section 68(5) empowers the State Transport Authority and the Regional Transport Authority, if authorised in this behalf by rules made u/s 96 to delegate such of its powers and functions to such authority or person subject to such restrictions, limitations and conditions as may be prescribed by the said rules. u/s 86 the transport authority which granted a permit has been vested with power to cancel the permit or to suspend the same for such period as it thinks fit. Section 86 reads as under:-

"86(1)The transport authority which granted a permit may cancel the permit or may suspend it for such period as it thinks fit (a) on the breach of any condition specified in section 84 or of any condition contained in the permit, or (b) if the holder of the permit uses or causes or allows a vehicle to be used in any manner not authorised by the permit, or (c) if the holder of the permit ceases to own the vehicle covered by the permit, or (d) if the holder of the permit has obtained the permit by fraud or misrepresentation, or (e) if the holder of the goods carriage permit, fails without reasonable cause, to use the vehicle for the purposes for which the permit was granted, or (f) if the holder of the permit acquires the citizenship of any foreign country: Provided that no permit shall be suspended or cancelled unless an opportunity has been given to the holder of the permit to furnish his Explanation .(2) The Transport Authority may exercise the powers conferred on it under sub-section (1) in relation to a permit granted by any authority or person to whom power in this behalf has been delegated under sub-section (5) of section 68 as if the said permit was a permit granted by the Transport Authority. (3) Where a Transport Authority cancels or suspends a permit, it shall give to the holder in writing its reasons for the action taken. (4) The powers exercisable under sub-section (1) (other than the power to cancel a permit) by the Transport Authority which granted the permit may be exercised by any authority or person to whom such powers have been delegated under sub-section (5) of section 68. (5) Where a permit is liable to be cancelled or suspended under clause (a) or clause (b) or clause (e) of sub- section (1) and the Transport Authority is of opinion that having regard to the circumstances of the case, it would not be necessary or expedient so to cancel or suspend the permit if the holder of the permit agrees to pay a certain sum of money, then notwithstanding any- thing contained in sub-section (1), the Transport Authority may, instead of cancelling or suspending the permit, as the case may be, recover from the holder of the permit the sum of money agreed upon. (6) The powers exercisable by the Transport Authority under sub-section (5) may, where an appeal has been preferred u/s 89, be exercised also by the appellate authority. (7) In relation to a permit referred to in sub-section (9) of section 88, the powers exercisable under sub- section (1) (other than the power to cancel a permit) by

the Transport Authority which granted the permit, may be exercised by any Transport Authority and any authority or persons to whom power in this behalf has been delegated under sub-section (5) of section 68, as if the said permit was a permit granted by any such authority or persons.

(3) Thus it is clear from sub-section (1) of Section 86 of the Act that the transport authority which granted the permit has the power to cancel or suspend the same on breach of any condition specified in Section 84 or any condition contained in the permit or on the grounds mentioned in clauses (b) to (f) thereof. A transport authority can also exercise the powers conferred on it under sub-section (1) of Section 86 in relation to permit granted by another authority or person provided the power in that behalf has been delegated under sub-section 5 of Section 68. As already noticed, the power can be delegated if authorised by the Rules made u/s 96 of the Act. Under sub-clause 5 of Section 86, the transport authority who has the power to cancel or suspend the permit under clause (a) or (b) or clause (c) of sub-section (1) can instead of cancelling or suspending the permit, recover from the holder of the permit such sums of money agreed upon to be paid by the latter in lieu of cancellation or suspension of the permit. Sub-section (6) authorises the appellate authority to exercise the powers as are exercisable by the transport authority under sub-section (5). The net result of the provision of sub-section (6) is that the powers which a transport authority can exercise, can also be exercised by the appellate authority. The power to suspend or cancel the permit which is found in sub-section (1) of Section 86, also flows into sub-section (5) thereof. Along with the power to recover from the holder of the permit a sum of money agreed upon by him in lieu of the penalty of suspension or cancellation of the permit. By virtue of sub-section 6 of Section 86 such power of suspension or cancellation of the permit and power to recover from the holder of the permit agreed sum of money in lieu of penalty of suspension or cancellation are also exercisable by the appellate authority. Since the appellate authority had the jurisdiction to suspend or cancel the permit, the dismissal of the appeal tantamounts to passing of the order of suspension of the license by the appellate authority itself. This being so, there is no warrant in the submission of the learned counsel for the petitioner that the suspension of the permit was without jurisdiction. Besides the petitioner was granted permit on the condition that on the breach of any condition contained in the permit, the same will be liable to be cancelled or suspended. It is not disputed by the learned counsel for the petitioner that the condition of the permit was violated. Writ being discretionary remedy, the petitioner cannot be allowed to invoke the same when she has violated the condition of the permit.

(4) Before parting with the judgment, it needs to be pointed out that the rules for the delegation of the powers u/s 68(5) of the Act have not been framed so far. It is difficult to imagine how the authority intends to curb the violation of the conditions of the license and infringement of Section 86 of the Act if rules have not been framed u/s 96 thereof. In view of the seriousness of the matter, the respondent will consider forthwith the framing of the rules as contemplated by

Section 68(5) of the Act.

(5) Accordingly, the writ petition is dismissed.