
(1960) 05 PAT CK 0008

In the Patna High Court

Case No : Misc. Judicial Case No's. 100 to 107 of 1959

Raja Khangarjee and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 04-05-1960

Acts Referred:

Motor Vehicles Act, 1939 — Section 57(2), 68B, 68C

Citation : AIR 1960 Patna 506

Hon'ble Judges : V. Ramaswami, C.J; R.K. Chaudhary, J

Bench : Division Bench

Advocate : Saptami Jha, for the Appellant; Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

1. For three routes, namely, (1) Barama-sia Chandankiary Chas-Dhanbad via Mahuda (2) Dhanbad Sindri via Jharia, and (3) Katras Sindri via Jharia applications were received from various operators, and the Rajya Transport undertaking, Bihar, was also an applicant along with the other operators. At a meeting held on the 19th of October, 1957, the Chotanagpure Regional Transport Authority, after giving a hearing to the applicants, granted permit for the routes mentioned above to the Rajya. Transport. The operators whose applications were rejected went up in appeal to the Appeal Board of the State Transport Authority against the order of the Chotanagpure Regional Transport Authority. The Appeal Board held that the Rajya Transport being a State Transport undertaking was not competent to make an application u/s 57(2) of the Motor Vehicles Act in competition with other operators on the routes advertised by the Chotanagpure Regional Transport Authority. Against this order of the Appeal Board the Rajya Transport went up in revision before the State Government under the provisions of Section 64A of the Motor Vehicles Act. The revision application was allowed by the Minister of Transport, who set aside the order of the Appeal Board and held that the Rajya Transport was competent to apply for permit in respect of routes

which are not notified within the meaning of Section 68C of the Motor Vehicles Act.

2. In support of these applications it was submitted by learned counsel that the view of law taken by the Minister of Transport in his order dated the 21st of August, 1958, is erroneous. We do not accept the argument of learned counsel as right. In our opinion the Minister of Transport has taken the correct view of law as to the interpretation of Section 68C of the Motor Vehicles Act. Section 68B of the Motor Vehicles Act states that the provisions of Chapter IVA and the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in Chapter IV of the Act or in any other law. But the provisions of Chapter IVA apply only to a case where there is a scheme prepared and published in accordance with Section 68C which reads as follows:--

"68C". Preparation and publication of Scheme of road transport service of a State transport undertaking:-- Where any State transport undertaking is of opinion that for the purpose of providing an efficient, adequate, economical and properly coordinated road transport service, it is necessary in the public interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking, whether to the exclusion, complete Or partial, of other persons or otherwise, the State transport undertaking may prepare a scheme giving particulars of the nature of the services" proposed to be rendered, the area or route proposed to be covered and such other particulars respecting thereto as may be prescribed and shall cause every such scheme to be published in the Official Gazette and also in such other manner as the State Government may direct."

It is clear, therefore, that as soon as a road transport service is notified u/s 68C all the provisions of Chapter IVA come into play and u/s 68B of the Act the provisions of Chapter IVA override the provisions contained in Chapter IV and other laws. But so long as a scheme is not prepared and published u/s 68C of the Act, we see no reason why the Rajya Transport undertaking should not make an application For road transport permit u/s 57(2) of the Motor Vehicles Act which reads as follows:--

"57. Procedure in applying for and granting permits.-

(2) An application for a stage carriage permit or a public carrier's permit shall be made not less than six weeks before the date on which it is desired that the permit shall take effect, or, if the Regional Transport Authority appoints dates for the receipt of such applications, on such dates."

3. It is admitted position that before the insertion of Chapter IVA by Section 62 of Act 100 of 1956 the Rajya Transport undertaking used to make application for stage carriage permit u/s 57(2) of the Motor Vehicles Act along with other operators.

4. There is nothing in the language of any of the provisions of the new Chapter IVA of the amended Act to suggest that the right of the Rajya Transport undertaking to make an application for stage carriage permit u/s 57(2) has been taken away expressly or by necessary implication. We are, therefore, of the opinion that the view taken by the Minister of Transport in his order dated the 21st of August, 1958 represents the correct legal position and the Rajya Transport was competent to apply for permit in respect of routes which are not notified within the meaning of Section 68-C of the Motor Vehicles Act.

5. In our opinion, there is no merit in these applications which are accordingly dismissed. There will be no order as to costs.