
(1983) 11 RAJ CK 0026
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1503 of 1975

Ram Chandra

APPELLANT

Vs

S.T.A.T. and Others

RESPONDENT

Date of Decision : 09-11-1983

Acts Referred:

Constitution of India, 1950 — Article 216, 226

Citation : (1983) WLN 399

Hon'ble Judges : D.P. Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dwarka Prasad Gupta, J.—The question which has been raised in this writ petition relates to the plying of stage carriage vehicles on Merta City--Pipar Road route (hereinafter referred to as "the route") and more particularly to the via of the route.

2. The petitioner is an existing operator of Gotan--Pipar City route, being the transferee of the permit of Mohd. Ibrahim. The petitioner's route is via Kawaspura, Chokri and Siyara. It is not disputed that initially two non-temporary stage carriage permits were granted on March 8, 1956 on the route and the original route of those permits was Merta City--Pipar Road via Hariyadhana Madaliya and Borunda. In the year 1958, both the permits were transferred to Amraram and Vijayraj, who held them jointly. An application for change of the via of the route, so as to incorporate Kawaspura, Chokri and Siyara, in place of Hariyadhana, Madaliya, Borunda was submitted before the Regional Transport Authority, Jodhpur (hereinafter referred to as the R.T.A. on July 28, 1966, allegedly on behalf of Amraram and Vijayraj. The aforesaid application for change of via was published in the Rajasthan Gazeite u/s 57(8) read with 57(3) of the Motor Vehicles Act on March 23, 1967. Amraram subsequently disputed that he did not file the aforesaid application for change of via of the route and alleged that the said application was forged. However, this much is not disputed before

me that no objections were submitted by any person whatsoever before the R.T.A. in respect of notification published regarding the change of via of the route. It is alleged by the respondents Nos. 3 and

4 that the matter regarding change of via was allowed by circulation by the R.T.A. vide circulation note date May 1, 1967, but the alleged decision of the matter by circulation is seriously disputed by the petitioner.

3. The R.T.A. by its resolution dated July 4, 1969 (Annex. P. 13) increased the scope of permits on the route from 2 to 5 vehicles performing two return trips every day. Two more permits were granted in the year 1970 while the fifth permit was granted to Hari Ram on May 15, 1972. The two new permits granted in the year 1970 were issued via Hariyadhana, while the permit issued to Hari Ram on May 15, 1972 was via Kawaspura Chokri and Siyara.

4. Whether, the alleged circulation note decided finally the question of via or not is no doubt disputed, yet it is undisputable that on the basis thereof the via mentioned in the permits of the two existing permits holders was modified and in place of Hariyadhana and Borunda, the names of villages Kawaspura, Chokri and Siyara were specified in those two permits. Thus there was a confusing state of affairs prevailing on the route. Out of 5 permits granted on the route, three were via Kawaspura, Chokri and Siyara, while the other two permits granted in the year 1970 specified the route to be via Hariyadhana, Madaliya and Borunda. The matter was debated by the parties before the R.T.A., who by its resolution dated January 4, 1974 came to the conclusion that the original via of the route was not modified and that the circulation note dated May 1, 1967 did not result in any final decision on the subject and that the endorsement of via in the permits was made without any specific order. The R.T.A. directed that the endorsement made in the permits of Chhotmal, who was the transferee of the two permits of Amraram Vijayaraj should be rectified, as a correct via of the route was via Hariyadha. and Madaliya. The R.T.A. also held that as Amraram claimed that he did not file any application, it was no longer necessary to pass any order on the said application for change of via, alleged to have been filed on behalf of Amraram.

5. Three appeals were filed before the State Transport Appellate Tribunal, Rajasthan. Jaipur (hereinafter called "the Tribunal") against order of the R.T.A. dated January 4, 1974. All the three appeals were allowed by the Tribunal on 14-5-1975, as the Tribunal came to the conclusion that although no effective order passed by the R.T.A. on the circulation note dated 1-5-1965, yet an order granting a change of the via of the route should be inferred from the entire proceeding of that circulation note. The Tribunal also observed that the Secretary of the R.T.A. also understood the result of the circulation note as granting inclusion and exclusion of villages prayed for in the application. Taking into consideration the various factors available on the record, the Tribunal further held that the decision of the question could not now be reviewed or received by the R.T.A. The Tribunal thus affirmed that the route of the permits of vehicles

plying from Merta City to Pipar Road was through Kawaspura, Chokri and Siyara and not via Hariyadhana and Madalia. The aforesaid order passed by the Tribunal has been challenged by the petitioner in this writ petition.

6. Learned Counsel for the parties argued at great length about the various aspects of the case, but the contest was on the question as to whether the matter relating to change of via of the route from Merta City to Pipar Road was finally decided by the R.T.A. by circulation or no decision was recorded at the stage. As I have already pointed out above, the R.T.A. took one view on this question vide its resolution dated January 4, 1974 while the Tribunal took a different view in its order dt. 14-5-1975 Both the transport authorities have observed that there was no definite or specific order passed by the Chairman of the R.T.A. But while the R.T.A. held that the Secretary of the R.T.A. had amended the via of the route by making an endorsement on the permits of the existing operators of the route without any order from the R.T.A., yet the Tribunal held that an order should be inferred from the record of the circulation proceedings regarding deletion and inclusion of villages by the R.T.A. Of course, no specific order passed by the R.T.A. regarding the change of via in clear terms is in existence, but from the fact that a request was made by the then existing operators of the route to delete the villages Hariyadhana and Madalia and include the villages Kawaspura, Chokri and Siyara and after the same was notified and no objections were received, the matter was taken up by circulation by the R.T.A. and thereafter the Secretary, R.T.A. altered the entry relating to the via of the route in the permits. Thus, the Tribunal thought that the R.T.A. allowed the exclusion and inclusion of the villages prayed for by the permit holders and though the order was not expressly worded, yet from the entire proceedings of circulation note, the inference could easily be drawn. According to the Tribunal the Secretary of the R.T.A. made an endorsement about the change of via of the route, by inclusion and exclusion of villages, in the permits of the existing permit holders of the route on the basis of the circulation order and that the R.T.A. itself was incompetent to review or revise its earlier decision in the matter

7. Learned Counsel for the petitioner argued that the scope of permits on the route was enlarged to five with two daily return trips by the resolution of the R.T.A. dated July 4, 1969 and therein the R.T.A. referred to the route on which the scope was increased as "the existing route". According to the learned Counsel, the reference must be understood to have been made to the original route, which was via Hariyadhana and Madalia. It was also pointed out that Amraram has disowned the application alleged to have been made on his behalf for a change of via of the route and according to the learned Counsel, the said application was fraudulently made. He also referred to the permit Annex P. 14 issued to Nenulal on October 23, 1969 Via Hariyadhana and Madalia. On the other hand, learned Counsel for the respondent relied upon the permit issued to Hari Ram, on May 15, 1972, which specified the route of the permit via Kawaspura. The entire record leaves a very poor impression regarding the state of affairs prevailing in the office of the R.T.A. and it appears that the office of the

R.T A., including its Secretary, was playing in the hands of the operators, sometimes favouring the petitioner and other existing operators on Gotan-Pipar City route while at another time favouring Chhotmal and Hari Ram, respondents No. 3 and 4. No explanation is available on the record as to why in the three permits issued in pursuance of the increased scope on the route, on the basis of the resolution of the R.T.A. dated July 4, 1969, specified different vias for the very same route, Merta City to Pipar Road. It cannot be denied that there was only one route in existence between Merta City and Pipar Road, which was sanctioned by the R.T.A, and on which limit of the 5 permits and two daily return trips was fixed by the resolution of the R.T.A. dated July 4, 1969. Thus, the action taken by the office of the R.T.A., either in issuing the new permits or in issuing notices and orders from time to time, some time favouring one party and at other time favouring the other party, does not lead to any definite conclusion.

8. Both the transport authorities have drawn their own inferences from the proceedings of the R.T A., initiated on the basis of the circulation note dated May 1, 1967 and as there was no definite or specific order of the R.T.A. to the contrary, the inferences drawn by the Tribunal regarding the conclusion of the proceedings of the R.T.A. on the basis of the aforesaid circulation note, should not be ordinarily interfered with by this Court. The R.T A. rightly observed in its order dated January 4, 1974 that no explicit order was given by the R.T.A. as a result of the circulation note in question. But from a detailed consideration of the proceeding taken on the basis of the said circulation note dated May 1, 1967, the Tribunal inferred that the proposal for change of via must be held to have been allowed by the R.T.A. as a result of those proceedings. I am inclined to agree with the view taken by the Tribunal in this respect. When one of the R.T.A. desired that the matter should be placed in the meeting for a decision, the Chairman of the R.T.A. did not agree and directed the Secretary to proceed with the circulation to other member holding that as no objections were filed after the publication of the proposal for change of via of the route, the matter could be disposed of by circulation. When the matter was re-circulated the Secretary reminded the members of the fact that no objections were received in that case and observed that according to the directions, "the clear case" where no objections were received in response to the publication of the proposal in the Gazette, the same could be decided by way of circulation. As none of the members of the R.T.A. thereafter expressed disagreement, the Tribunal appears to be justified in drawing an inference that the proposal for change of Via of the route was allowed by circulation.

9. Learned Counsel for the petitioner submitted that the circulation proceedings, were not taken in accordance with the provisions of Rule 78 of the Rajasthan Motor Vehicles Rules, 1951. But no such objection was taken either before the R.T.A. or before the Tribunal about the illegality or invalidity of the procedure adopted by the R.T.A. in the circulation matter. The only question canvassed before the concerned transport authorities was "as to whether the circulation proceedings resulted in a final decision of the mater or not. The Tribunal inferred

that the matter was finally decided, as the Chairman of the R.T.A. had observed that it should be disposed of by circulation, if there is no objection and as no contrary opinion was expressed by any member. Thus, according to the Tribunal, an order was passed by circulation by the R.T.A., which was also understood by the Secretary as granting the exclusion and inclusion of villages as prayed for in the application.

10. Learned Counsel for the petitioner also argued that Amraram and Vijayraj have disclaimed the application alleged to have been filed on their behalf for change of via of the route and submitted that the application was a forged one. This question appears to have been raised only after the matter was decided by circulation by the R.T.A. It is also apparent from the record that Amraram ceased to have any subsisting interest in the permits on the route, as he had already transferred the vehicles plying on the route and the permits thereof to Chhotmal. It is also on record that Amraram had a dual capacity, in as much as he was also the power of attorney holder of Mohd. Ibrahim, the predecessor-in-interest of the petitioner, while he was also the transferor of the permit on the Merta City-Pipar Road route. This dual capacity of Amraram explains the changing postures adopted by him from time to time. The petitioner and other existing operators of Gotan to Pipar City route, did not raise any objection within the prescribed time and in accordance with the procedure prescribed in Section 57(8) read with 57(3) of the Motor Vehicles Act in respect of the proposal to amend the via of the route by exclusion of some villages and by inclusion of others; nor any substantial reason has been shown by the petitioner in the present writ petition as to why the alteration in the via should not have been allowed except that a part of the route of his permit from Kawaspura to Pipar City would be overlapped by the altered route. It may be pointed out that the route from Kosana to Pipar City was already common to the two routes and would in any case be overlapped by the buses plying over Merta City to Pipar Road. The only difference which was likely to be caused to the petitioner was in respect of overlapping from Kawaspura to Kosana, a distance of only about 9 miles. It may be observed that stage carriage vehicles have to be operated in accordance with the needs of the travelling public and public interest is the main consideration while deciding disputes relating to plying of stage carriage vehicles and slight overlapping of the route by one operator by the route by the other operator is not of much significance, so long as it is not contrary to public interest.

11. I am prepared in the aforesaid circumstances, in these proceedings Under Article 226 of the Constitution of India, to take a view different from that arrived at by the Tribunal regarding the out-come of the proceedings arising out of the circulation note dated May 1, 1967. As the application for change of via was held by the Tribunal to have been allowed by way of circulation by the R.T.A. as far back as in the year 1967, then the Tribunal was perfectly justified in holding that thereafter the "existing route" was along the modified via, including the villages Kawaspura, Chokri and Siyara and excluding the villages Hariyadhana Madaliya and Borunda. Learned Counsel for the petitioner contended that the R.T.A. itself

treated the matter relating to inclusion and exclusion of villages to be still pending, as by its resolution (Annex. P. 7) dated March 21, 1969 the matter was postponed for consideration to the next meeting. However, a reading of the aforesaid resolution goes to show that Amraram admitted before the R.T.A. that he had already parted with the vehicles covered by the two permits on the route in the year 1958 and had transferred it to Shantilal, and the same was later on transferred to Ahsan Ali and then to Chhotmal. The offence committed by Amraram in transferring the vehicles and the permits thereof, without prior permission of the R.T.A. was compounded on payment of Rs. 6,000/- for the two permits of the route and the R.T.A. decided that the said permits should be transferred in the name of the ultimate purchaser Chhotmal, who was plying the vehicles at the relevant time. After the transfer of the two permits to the name of Chhotmal, the question of inclusion and exclusion of villages by change of via already stood concluded as a result of proceedings taken on the basis of the circulation note dated May 1, 1967, and then nothing was left which the R.T.A. could have decided in the matter later on. It was on this context that the Tribunal has observed that the R.T.A. had no authority to review or revise that decision already taken by it by the procedure of circulation, long back in the year 1967; and a stray observation made in a resolution two years later could not take away the finality of the order passed by the R.T.A. in 1967 by circulation. My attention was also drawn to an application alleged to have been filed to Amraram and Vijayraj on 30th May, 1967 and it was suggested that the matter was listed for hearing in the meeting of the R.T.A. on 2nd and 3rd June, 1967 and the application submitted that their signatures on the application for change of via were forged. The Agenda of the meeting of the R.T.A., held on 2nd and 3rd June, 1967 has not been placed on the record and from the application alleged to have been submitted by Vijayraj and Amraram, it cannot be assumed that the proceeding change of via of the route were not finally decided by way of circulation. As I have already observed above, Amraram was the power of attorney holder of Mohd. Ibrahim, the existing operator on the Gotan-Pipar City route (petitioner's route) and he was, therefore, adopting changing postures from time to time. The application for change of via dated July 28, 1967 has been signed by Shri B.L. Maheshwari, a Senior Advocate of this Court on behalf of the permit holders. Thus, it is absolutely of no avail for Vijayraj and Amraram to say that their signatures on the application were forged, in as much as the said application did not even purport to bear their signatures but they had filed the said application through their counsel Shri B.L. Maheshwari, who had signed the application on their behalf. Moreover, as I have pointed out from the resolution Annex. 7 dated March 21, 1969 that Amraram and Vijayraj had already parted with the vehicles and the permits prior to 2nd and 3rd June, 1967 and they could change their stand and deny the submission of the application for change of via of the route because by then Chhotmal respondent was the person solely interested in the plying of the two vehicles on the route. In any view of the matter, no enquiry can be made in these proceedings Under Article 216 of the Constitution, regarding the question as to whether the application for change of

via was genuinely made by the permit holders of the permits on the route or the application was made by some person authorised on their behalf, to make such an application.

12. The only question which both the transport authorities have decided and which I have also considered is as to whether the question of inclusion or exclusion of villages by change of via of the route was decided by the R.T.A., by the procedure of circulation or no decision in fact was arrived at by the R.T.A. in that matter. The existence of an application is supposed by the publication of the substance thereof in the Rajasthan Gazette and by the fact that the same was placed for decision by circulation. It is on record that the alleged application had already been published in the Gazette dated March 23, 1967 in accordance with the procedure prescribed u/s 57(8) read with Section 57(3) of the Motor Vehicles Act and no objection whatsoever was received in respect thereof. If the application was not a genuine one, Amraram and Vijayraj or any one of them could have raised an objection about its genuineness soon after the application was published in the Gazette or within the statutory period allowed for making objections. The petitioner or, his predecessor in interest also failed to file any objection in respect of the application for change of via in accordance with Section 57(3) of the Act.

13. In *Sharma Roadways v. Sohanlal Soni* RLW 1965 340 a Division Bench of this Court took the view that a party failing to file a representation before the appointed date u/s 57(3) of the Motor Vehicles Act was not entitled to a hearing by the R.T.A. and such a person was not also entitled to maintain a writ petition in this Court in that matter. The petitioner or his predecessor-in-interest failed to file any objection after the publication of the proposed change in the via of the route, within the specified time or at any time. The petitioner also did not file any appeal against the order of the R.T.A. passed by circulation in the year 1967 allowing the inclusion & exclusion of villages, by change of via of the route. The Tribunal held that the matter could not be reagitated before the R.T.A. itself because the R.T.A. had no power to review or revise its earlier decision on the subject. Thus, if an earlier decision of the R.T.A. on the question of change of via existed, as has been held by the Tribunal, and with which view I have expressed my agreement, then the said matter could not be agitated by the petitioner, before R.T.A. either by means of an application for reconsideration or by way of review nor the petitioner could maintain a writ petition on the subject.

14. As a result of the aforesaid discussion, the writ petition is dismissed. The parties are, however, left to bear their own costs.