

(1965) 11 MP CK 0017

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 300 of 1965

Ramgopal Satyanarain, Bus Operator

APPELLANT

Vs

M.P. State Road Transport Corporation and Others

RESPONDENT

Date of Decision : 25-11-1965

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 45 Rule 13
Constitution of India, 1950 — Article 226

Citation : AIR 1966 MP 227 : (1966) JLJ 488 : (1966) 11 MPLJ 586

Hon'ble Judges : P.V. Dixit, C.J.; R.J. Bhavde, J

Bench : Division Bench

Advocate : R.K. Tankha, for the Appellant; V.S. Dabir, for Opposite Party No. 1, for the Respondent

Final Decision : Dismissed

Judgement

Dixit, C.J.

This is an application for staying the operation of this Court's order dated 28th September 1965 allowing an application filed by the Madhya Pradesh State Road Transport Corporation Vs. R.C. Roy Poddar and Others, , under Articles 226 and 227 of the Constitution and quashing by a writ of certiorari an order passed by the State Transport Appellate Authority on 1st January 1965 granting to the petitioner along with one Sriram Khanna and S.S. Pande a return trip permit for Rewa-Bhopal route. The petitioner's application for a certificate for appeal to the Supreme Court from the decision dated 28th September 1965 was rejected by this Court on 11th October 1965. It has now filed an application for Special Leave in the Supreme Court. The hearing of the petitioner's application for Special Leave has been postponed by the Supreme Court till the disposal of another SLP in which points similar to those raised by the applicant in his application for Special Leave are involved. The applicant prays that the operation of this Court's order dated 28th September 1965 be stayed till the disposal of its application for Special Leave by the Supreme Court.

This application must be dismissed. By the order dated 28th September 1965 against which the petitioner intends to appeal, the order of the State Transport Appellate Authority granting a permit to the petitioner for a return trip on the route in question has been quashed and the matter has been remitted to the appellate authority for deciding the question of the grant of the return trip permit after hearing the five appellants whose appeals revived as a result of this Court's decision in Ramgopal Satyanarayan v. State Transport Appellate Authority, Misc. Petn. No. 420 of 1962, D/-28-4-1965 (Madh. Pra.), and Rewa Transport Service v. State Transport Appellate Authority, Misc. Petn. No. 38 of 1963, D/- 28-4-1965 (Madh Pra), quashing the decision of the appellate authority disposing of the five appeals by a common order. The decision now sought to be appealed from having already taken effect in regard to the quashing of the order of the State Transport Appellate Authority granting a permit to the petitioner along with two other persons, no question of staying the operation of that order so as to postpone the quashing of the order of the appellate authority dated 1st January 1965 can at all arise. An order of the High Court granting a writ of certiorari under Article 226 of the Constitution takes effect from the moment it is delivered and pronounced. The order of the appellate authority granting a permit to the petitioner having thus already been quashed, there can be no room even for the play of Order 45, Rule 13 of the CPC assuming that the said rule applied to orders made under Article 226 of the Constitution. On this view this Court has consistently rejected prayers made for staying the operation of its orders quashing by a writ of certiorari any decision or determination of a subordinate tribunal. Recently, in the case of M.P. State Road Transport Corporation v. State of M. P., Misc. Civil Case No. 196 of 1965, D/-7-10-1965 (Madh Pra), a prayer made by the Corporation for staying the operation of an order of this Court quashing by the issue of a writ of certiorari a decision of the Special Secretary approving five schemes u/s 68-D (2) of the Motor Vehicles Act, 1939, was rejected on 7th October 1965 on the view that an order of this Court granting a writ of certiorari takes effect from the moment it is delivered and pronounced and there can, therefore, be no question of staying the operation of such an order.

The petitioner has, however, founded its prayer for stay on a suggestion contained in the Supreme Court's order dated 26th October 1965 postponing the hearing of its Special Leave application. In that order the Supreme Court has said :--

"Liberty to the petitioners to move the High Court for stay, if so advised."

This suggestion cannot be construed as embodying either a direction to this Court to stay the operation of the order sought to be appealed against, or the opinion of the Supreme Court that in such cases the High Court has the power to stay the operation of its decision quashing a decision of subordinate tribunal by the issue of a writ of certiorari. Shri Tankha, learned counsel for the applicant, stated that in some Special Leave petitions the Supreme Court had given liberty to the petitioner to move the Madras High Court for extension of stay and that

the Madras High Court had extended the period of the stay. We have not before us any decision of the Madras High Court staying the operation of an order made by it under Article 226 quashing a decision or determination of any subordinate tribunal or authority. We do not see any ground to depart from the view expressed by this Court in Misc. Civil Case No. 196 of 1965. D/- 7-10-1965 (Madh Pra) and accede to the petitioner's prayer for staying the operation of this Court's order dated 28th September 1965, merely because the Madras High Court in some cases had stayed the operation of the orders passed by it quashing some decisions of subordinate authorities.

For these reasons, this application is rejected.