
(1955) 02 MAD CK 0009
In the Madras High Court
Case No : Writ Appeal No. 9 of 1954

S. Gopala Reddi

APPELLANT

Vs

Regional Transport Authority, North Arcot and Others

RESPONDENT

Date of Decision : 11-02-1955

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1939 — Section 64, 64A

Citation : AIR 1955 Mad 386 : (1956) ILR (Mad) 24 : (1955) 68 LW 391

Hon'ble Judges : Rajamannar, C.J;Rajagopala Aiyangar, J

Bench : Division Bench

Advocate : N.G. Krishna Iyengar, for the Appellant; Special Govt. Pleader and T. Chengalvarayan, for the Respondent

Final Decision : Allowed

Judgement

Rajamannar, C.J.—This appeal against the order of Govinda Menon J. dismissing an application by the appellant for the issue of a Writ of

Certiorari to quash the order of the Government dated 20-10-1953 arises out of the following facts. The fourth respondent herein who had already

a stage carriage permit on the route, Timvannamalai to Dharmapuri, applied for the renewal of his permit. When his application was published, the

present appellant applied for the grant of a permit to him on the same route. Both the applications, i.e., the application of the fourth respondent for

renewal and the appellant's application for the issue of a permit, were heard together, and quite rightly, by the Regional Transport Authority,

because these two were rival applicants for a, permit on the same route. The Regional Transport Authority passed the following order on both, the

applications:

Renewed after hearing the objection and representation. Individual cases of infringement will be dealt as and when they arise.

The latter part of the order refers to the objection of the appellant to renewal to the fourth respondent of the permit on the ground that the fourth respondent was guilty of infringement of the conditions of the permit.

Against this order, which in effect was a combined order disposing of both the applications of the appellant and the fourth respondent, the

appellant filed an appeal to the Central Road Traffic Board. The fourth respondent raised an objection as to the maintainability of the appeal on the

ground-that there was no right of appeal against an order granting renewal of a permit. The appellant, on the other hand, maintained that the appeal

was competent, because his appeal must be deemed to be an appeal against the order of the Regional Transport Authority refusing his application

for a permit, and he had a right of appeal against such an order u/s 64-A of the Motor Vehicles Act.

The Central Road Traffic Board, however, by a process of involved reasoning, came to the conclusion that the appeal was not maintainable, and

dismissed it. The appellant thereupon approached the Government for interference u/s 64-A, but the Government declined to interfere.

The appellant then filed an application to this court under Article 226 of the Constitution for issue of a Writ of Certiorari to quash the said order of

the Government. Govinda Menon J. dismissed the application, observing that the Transport authorities cannot be said to have acted in excess of

jurisdiction or failed to exercise a jurisdiction vested in them by law. This appeal is against that order of Govinda Menon J.

2. With respect to the learned Judge, we must hold that there has been a clear failure on the part of the Central Road Traffic Board to exercise a

jurisdiction vested in them, viz., of entertaining and disposing of the appeal preferred by the appellant to them. The Government, in so far as they

confirmed the order of the Central Road Traffic Board holding that the appellant's appeal was not competent, must also be deemed to have

committed an error which related to jurisdiction.

The appeal by the appellant was against what we have referred to above as a combined order which disposed of simultaneously the application by

the fourth respondent for a renewal of the permit in his favour and the

application by the appellant for the grant of a permit. The applications were in effect applications for the grant of a permit, and on that route, only one permit could be granted. The grant of a permit to one, would automatically mean the refusal of a permit to the other. The appeal was, in our opinion, perfectly competent as an appeal against the order of the Regional Transport Authority, refusing to grant a permit. The fact that such an appeal involved an attack on the order granting a renewal of a permit to the fourth respondent would not prevent the appeal being what it was, viz., an appeal against the refusal to grant a permit, to the appellant. The Central Road Traffic Board erred in presuming that it was not open to them in the appeal to consider the merits of the order granting renewal of the fourth respondent's permit. Indeed, the first question which had to be determined in the appeal filed by the appellant would be the propriety of the action of the Regional Transport Authority in granting a renewal to the fourth respondent. The filing of the appeal by the appellant set at large the order of the Regional Transport Authority granting the renewal.

3. We, therefore, hold that the Central Road Traffic Board wrongly rejected the appeal as incompetent. They thus refused to exercise a jurisdiction which they undoubtedly had. We, therefore, quash the order of the Central Road Traffic Board and the order of the Government and direct the Central Road Traffic Board to restore the appeal to file and dispose of it in accordance with law. The appellant will be entitled to his costs of this appeal from the fourth respondent Advocate's fee Rs. 100.