

(2021) 01 KL CK 0032

In the High Court Of Kerala

Case No : Writ Petition (C) No. 14847 Of 2020

Sabu Varghese And Ors

APPELLANT

Vs

Regional Transport Authority And Ors

RESPONDENT

Date of Decision : 04-01-2021

Acts Referred:

Motor Vehicles Act, 1988 — Section 80(3), 83
Constitution Of India, 1950 — Article 226

Citation : (2021) 01 KL CK 0032

Hon'ble Judges : Sathish Ninan, J

Bench : Single Bench

Advocate : K.V. Gopinathan Nair, P. Deepak, Mable C. Kurian

Final Decision : Dismissed

Judgement

1. On 20.06.2006, the third respondent in these writ petitions was issued with a regular permit for the inter-district route Palakkad-Guruvayoor, subject to the obtaining of counter signature from the RTA, Thrissur. Since there was overlapping with the notified route, the RTA, Thrissur, refused counter signature. According to the third respondent, consequent to the refusal, the stage carriage operated between Palakkad and Pattambi.

2. On the expiry of the permit, which was valid from 20.06.2006 to 19.06.2011, the third respondent submitted an application seeking renewal of the same. The RTA, Thrissur, rejected the application for the reason of refusal of counter signature by the RTA, Thrissur. Thereupon, the third respondent approached the STAT by filing M.V.A.A. 315/2011. The same was disposed of by the STAT as per judgment dated 24.07.2014 directing the renewal application to be considered for the route Palakkad-Pattambi. Pursuant thereto, the RTA Palakkad directed the third respondent to submit an application for renewal of the permit in the route Palakkad-Pattambi. Accordingly, the third respondent submitted an application dated 02.06.2015. A writ petition was moved before this Court by the third respondent, as W.P.(c).33910 of 2014, seeking a direction to the RTA to consider

the said application. This Court as per judgment dated 29.09.2015 directed consideration of the application. The third respondent was necessitated to move this Court again in W.P(c).28037 of 2019 in which this Court again directed the authority to take a decision on the renewal application. Thereafter the RTA in its meeting held on 24.12.2019, rejected the application.

3. The order of rejection was challenged by the third respondent before the STAT in MVAA 39/2020. The appellate tribunal as per judgment dated 05.06.2020 set aside the order of the RTA and directed reconsideration of the renewal application, on the modified route Palakkad-Pattambi, on its merits. It is challenging the said judgment that these writ petitions have been filed by rival operators.

4. Heard learned counsel Sri.K.V.Gopinathan Nair and Sri.M.Jithesh Menon on behalf of the petitioners-rival operators, Sri.P.Deepak, the learned counsel for the third respondent-permit holder, and the learned Government Pleader.

5. Drawing my attention to the relevant provisions of the Motor Vehicles Act and the Rules, the learned counsel for the petitioners submitted that the procedural formalities mandated for 'renewal of a permit', and for 'curtailment and renewal of permit' are different. According to the learned counsel, without seeking for curtailment of the route, the third respondent could not have applied for renewal on the 'modified-curtailed route'. The third respondent ought to have moved the authorities with the necessary application in Form PVA as is prescribed under Rule 179 of the Motor Vehicles Rules and sought for curtailment in terms of Section 80(3) of the Motor Vehicles Act. The request of the third respondent seeking renewal of permit on the modified curtailed route without having recourse to the said requirements, could not be considered and granted; therefore, the STAT erred in directing consideration of the renewal application on its merits, is the contention.

6. I am in complete accord with the petitioners in their contention that the proper remedy of the third respondent was to seek for curtailment of the route and for renewal on the curtailed-modified route. However, on the facts of the present case, I do not think that the request of the third respondent for renewal on the modified curtailed route is to be rejected solely for the reason of non-compliance with the procedural requirement of submitting an application in terms of Section 83 read with Rule 179. The reasons that prompted me to take such a view are the following:

(i) The judgment of the STAT dated 24.07.2014 in M.V.A.A. 315/2011, which was filed challenging the original rejection of the renewal application. Therein, the STAT held thus:-

"The matter is remitted to the very same authority, and the Secretary/RTA Palakkad is hereby directed to consider the application submitted for renewal of permit by the petitioner, and also the application for temporary permit filed by him on the route Palakkad-Pattambi after affording an opportunity of being heard

to the appellant as well as to the third respondent". That judgment was passed after taking note of the facts involved.

(ii) Pursuant to the judgment in MVAA.315/2011, the RTA Palakkad, in its meeting held on 24.10.2014 directed the Secretary RTA to obtain an application from the third respondent seeking renewal of permit in the route Palakkad-Pattambi. Pursuant thereto, the third respondent submitted an application dated 02.06.2015 seeking renewal of permit on the modified curtailed route Palakkad-Pattambi.

(iii) The third respondent approached this Court in W.P.(C) No.33910/2014 seeking consideration of his application dated 02.06.2015. As per judgment dated 29.09.2015, this Court directed thus:-

"I direct the first respondent (RTA Palakkad) to consider the application as aforesaid dated 02.06.2015 treating the same as one for renewal of the existing permit on the modified route". The modified route mentioned therein was Palakkad-Pattambi.

(iv) A similar direction was issued by this Court in W.P.(C) No.28037/2019 wherein it was directed that a decision be taken on the renewal application within six weeks.

7. It is evident that in the earlier rounds of the proceedings, the STAT, the RTA and this Court had comprehended the situation and was considering the question of renewal of permit on the curtailed route. Under the circumstances, I do not think it proper or justifiable to reject the application of the third respondent solely on the reason that, the procedural formality of submitting an application for curtailment was not submitted by the third respondent.

8. As per the impugned judgment, the RTA Palakkad has only been directed to re-consider the application for renewal of permit on the modified route Palakkad-Pattambi, on the merits. I do not find any illegality warranting interference in exercise of the jurisdiction under Article 226 of the Constitution of India.

The writ petitions fail and are accordingly dismissed.