
(1985) 08 KAR CK 0017

In the Karnataka High Court

Case No : Writ Petition No's. 807 and 12806 of 1985

Sadananda Hegde

APPELLANT

Vs

Regional Transport Authority

RESPONDENT

Date of Decision : 26-08-1985

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Motor Vehicles Act, 1939 — Section 64 A

Citation : (1986) ILR (Kar) 3364

Hon'ble Judges : K.A. Swami, J

Bench : Single Bench

Advocate : S.V. Krishnaswamy, for the Appellant; C. S. Shanthamallapa, for R-8, for the Respondent

Final Decision : Dismissed

Judgement

K.A. Swami, J.—In these Petitions under Articles 226 and 227 of the Constitution, the petitioner has sought for quashing the order dated 14-4-1985 passed by the Karnataka State Transport Appellate Tribunal (hereinafter referred to as the Tribunal) in Revision Petitions 160, 224 and 318/1984 produced as Annexure-C, and to remit the matter for fresh consideration including the question of limitation.

2. Pursuant to the opening of the route on 21-4-1984 by the R.T.A. D.K. under Sub-No. 23/84-85 the petitioner has made an application for grant of a stage carriage permit. Therefore, he is aggrieved by the cancellation of the aforesaid Resolution of the R.T.A. Hence he has come up with these petitions.

3. Though in the Petitions, the petitioner has sought for quashing the resolution dated 18-8-1984 passed in Sub-No. 92/84-85 by the 1st Respondent and also the order dated 14-4-1985 passed by the Tribunal in Revision Petition Nos. 224 and 318/84, but, Sri S. V. Krishnaswamy, Learned Counsel for the petitioner has confined these petitions only to the validity of the order of the Tribunal in so far it relates to the resolution dated 21-4-1984 passed in Sub-No. 23/84-85.

Therefore, it is not necessary to consider the validity of the order of the Tribunal in so far it upholds the opening of the route by the R.T. A, D.K. under its resolution dated 18-8-1984 passed in Sub-No. 92/84-85.

4.1. In order to appreciate the contentions urged on behalf of the petitioner, necessary and undisputed facts of the case are as follows :

The first respondent on 21-4-1984 passed a resolution in Sub-No 23/84-85 opening the route Kollur to Coondapur and back via Golihole, Kaithodu, Kambadakone, Maravanthe, Trasi and Tallur and back for two round trips and Kollur to Kambadakone via Golihole, Kaithodu one round trip by one bus as a shuttle service. Subsequently, on 18-8-1984 it has passed another resolution in Sub-No. 92/84-85 opening another route from Kollur to Udupi and back via Golihole, Kaithodu, Kambadakone, Maravanthe, Trasi, Tallur, Coondapur, Kota. Both these resolutions were challenged by certain operators in the area before the Tribunal in Revision Petitions 160, 224 and 318 of 1984. In Revision Petition 160 of 1984, the correctness of the resolution dated : 21-4-1984 passed in Sub-No. 23/84-85 was challenged, whereas in Revision Petitions 224 and 318/84 the correctness of the resolution dated : 18-8-1984 passed in Sub-No. 92/1984-85 by the 1st respondent was challenged. All the three Revision Petitions have been heard and decided together by a common order.

4.2. On consideration of the material on record the Tribunal has come to the conclusion that in view of the opening of the longer route from Kollur to Udupi the shorter route opened on 21-4-1984 under Sub. No. 24/84-85 from Kollur to Coondapur two round trips and Kollur to Kambadakone one round trip is unnecessary.

5. Sri Krishnaswamy, Learned Counsel for the petitioner submits that as both the routes are different, and the route Kollur to Kambadakone was opened earlier to the opening of the route Kollur to Coondapur, that the route was opened on the basis of the report made by the Inspector of Motor Vehicles, that when the route Kollur to Coondapur was opened, it was opined by the R.T.A. that from Coondapur towards Udupi there were good number of services, therefore it was just and necessary to open the route from Kollur to Coondapur only. Under these circumstances, it is contended that the Tribunal is not justified in holding that on the opening of a longer route subsequently, the shorter route becomes unnecessary. It is also further contended that as the Tribunal has exceeded its jurisdiction in appreciating the material on record as though it is an original authority and has reversed the resolution of the R.T.A. on coming to different conclusions ; that having regard to a decision of this Court reported in Rahamathulla Vs. Karnataka State Transport Appellate Tribunal and Others, it was not permissible to the Tribunal to reappreciate the material on record in exercise of its Revisional Jurisdiction.

6. I have been taken through both the resolutions and the order of the Tribunal. It is no doubt true that Sub. No. 23/84-85 pertains to opening of the route Kollur

to Udupi. But on consideration of the material, the 1st Respondent has come to the conclusion that the bus services from Kollur to Coondapur are not adequate. Therefore, it has resolved to open the route between Kollur to Coondapur and back via Golihole, Kalthodu, Kambadakone, Marvanthe, Trasi, Tallur and Kollur to Kambadakone and via Golihole, Kalthodu, one round trip by one bus as a shuttle service. But immediately, on the opening of the said route there were several representations from the public that on the stopping of services operated under temporary permits on the route Kollur to Udupi, in view of the opening of the route Kollur to Coondapur, the travelling public were very much affected. In view of the several representations, the R.T.A. called for a fresh report from the R.T.O who on conducting the traffic survey made a report that it was necessary to open the route from Kollur to Udupi. The resolution passed by the R.T.A for opening the route Kollur to Udupi is as follows :

"Sub. No. 92/81-85

"To assess the need and consider the proposal for providing bus service u/s 47(1) of the M.V. Act, 1939 on the route Kollur to Udupi and back via Golihole, Kalthodu, Kambadakone, Kirimanjeshwara, Maravanthe, Trasi, Tallur, Kundapur, Kota, B. War and to fix the number of services u/s 47(3) of the M.V. Act, 1939.

RESOLUTION : RTA perused the records. It is seen that this RTA has already opened the route u/s 47(3) of the MV Act, 1939 from Kollur to K"pur at its meeting dated 21-4-84 in Sub. No. 23/84-85. Subsequently there were persisting representations from travelling public as well as prominent citizen urging to permit existing SC operating on temporary permit from Kollur to Kundapur so as to operate from Kollur to Udupi on the plea that service has been operating from last two years on route Kollur to Udupi and curtailment is not in the best interest of travelling public In response to the mass representation, the Secretary was directed to conduct re-survey on the entire route i.e. Kollur to Udupi.

The re-survey report reveals that there is dire need to introduce bus service on the entire route i.e., Kollur to Udupi. As both termini i.e., Kollur and Udupi are pilgrim centres. The pilgrim from outside the district would be benefited by this direct service. Moreover the people residing in interior places such as Golihole, Kalthodu, Maravanthe, would be benefited as at present there is only one bus service between Udupi to Kollur via this route. The arrangements of this one bus cater to large number of people especially of interior villages is primitive and needs augmentation so as to provide bus service at regular intervals on the route.

Taking all the above facts into consideration, RTA, satisfied that there is need to introduce bus service from Kollur to Udupi.

Therefore the RTA resolved to open the route u/s 47(3) of MV Act, 1939 from Kollur to Udupi via Golihole, Kaithodu, Kambadakone, Kirmanjeshwar, Maravanthe, Trasi, Hemmadi, Tallur, Kundapur, B. war in respect of one bus service to perform two round trips per day.

The Secretary, RTA is directed to notify the route u/s 57(2) of the MV Act, 1939."

7. Thus from the aforesaid resolution it is clear that when the R.T.A. resolved to open the route between Kollur to Udupi it did not consider the effect of it on the route Kollur to Coondapur opened on 21-4-1984 in subject No. 24/84-85. It also did not take into consideration number of services operated on the route Kollur to Udupi on temporary permits. Whereas the Tribunal has taken into consideration all the aspects of the matter, the Tribunal on consideration of rival contentions has held as follows :

"I find from the records that the Supdt., of Post Offices, Udupi Dn., Udupi has also sent a representation to the Secy. RTA found at page-15 stating that K. Jayachandra Hegde to whom TPs were being granted for operating service from Kollur to Udupi on the above mentioned routes was carrying mails to the post offices situate on that route and no other convenient services are run on that route and therefore the question of opening the new route may kindly be considered so that there will be any dislocation of delivery of mails to the post offices situated on route. Therefore, I am of the opinion that the RTA has acted in the best interest of the travelling public in opening the new route from Kollur to Udupi by its resolution dated 18-8-1984 in Sub. No. 92/84-85 and the said action of the RTA is neither improper nor illegal. Point No. 1 is - answered accordingly.

1(sic). In view of opening of this route by the RTA, its resolution dated 21-4-1984 opening the routes from Kollur to Coondapur and Kollur to Kambadakone is liable to be set-aside as these routes are only portion of the route from Kollur to Udupi and the Learned Counsel on both sides had also no objection for setting aside that order. Hence I hold on point No. 2 that the petitioners in RP. 224 and 318/84 are not aggrieved."

The aforesaid conclusions reached by the Tribunal are not erroneous. After all the total length of the route from Kollur to Udupi is hardly about 75 Kms., and Kollur to Coondapur is 55 kms. On such a short route as found by the Tribunal, on the opening of the longer route Kollur to Udupi which covers the route Kollur-Coondapur, there is no need to have the shorter route Kollur to Coondapur and again to Kambadakone. There is no material placed on record to show that there is need for both the services. In fact Learned Counsel appearing on both the sides before the Tribunal had no objection for setting aside the resolution dated 21-4-84 passed in Sub. 23/84-85.

8. However, Sri S. V. Krishnaswamy, Learned Counsel for the petitioner, has placed reliance on a decision of this Court in Rahamathulla Vs. Karnataka State Transport Appellate Tribunal and Others, It is submitted on the basis of the aforesaid decision that the Tribunal has exceeded its revisional jurisdiction in interfering with the decision of the R.T.A. In the aforesaid decision, it has been held as follows :

" Therefore, it is clear that when the Appellate Authority is also the revisional authority in certain cases, it can exercise revisional jurisdiction to consider the

validity of the order which could have been otherwise considered by it in the appeal. But, the question that still remains, as to whether it is open to the Appellate Authority to exercise revisional power in every case as a matter of course. It appears to me that such a course is not open to the Appellate authority in every case. It is only in exceptional cases where it is found that the original authority has ignored the law having a bearing on its jurisdiction or has acted without jurisdiction or failed to exercise jurisdiction or has acted arbitrarily or in disregard of the principles of natural justice, in exercise of its jurisdiction or has not complied with the required mandatory procedure ; and the order is of such nature that if it is allowed to stand, it would occasion a failure of justice or cause irreparable injury to the party against whom it is made then only the revisional jurisdiction can be exercised irrespective of the fact that an appeal has not been preferred. It is not permissible for the appellate authority to exercise the revisional jurisdiction in cases where there is only a misappreciation of evidence on record. Therefore, with the aforesaid limitation on the exercise of revisional power, it is open to the appellate authority to exercise the revisional jurisdiction in cases where an appeal lies but no appeal is preferred. Accordingly, Point No. (i) is answered."

That was a case in which the resolution of the R.T.A. granting extension was appealable. But, no appeal was preferred by the objectors. However the K.S.R.T.C which had not filed the objections, as such was not an objector, preferred an appeal against the resolution of the R.T.A. granting extension. It was held that the appeal filed by the K.S.R.T.C. was not maintainable because it was not an objector. However, the appeal was permitted to be converted into a revision. The Tribunal, on coming to a conclusion that the route covered by the extension granted by the resolution of the R.T.A. overlapped the national route, set aside the resolution of the R.T.A. granting extension in "exercise of its revisional power. Thus, that was a case in which the resolution challenged was appealable ; but no appeal was preferred; the appeal and the revision both lay to the Tribunal only. It was in that context, this Court held in the aforesaid terms regarding exercise of jurisdiction u/s 64A of the Motor Vehicles Act, 1939 (hereinafter referred to as the "Act"). But, in a case where no appeal lies and only a revision lies to the Tribunal and the revision is preferred by the aggrieved party, having regard to the wordings contained in Section. 64A of the Act, it is open to the Tribunal to go into the propriety and legality of the order and to pass such order in relation to the case, as it deems fit. In the instant case, as already pointed out, the Tribunal cannot be held to have exceeded the jurisdiction. It has only tried to find out whether it is proper to allow the route opened under the resolution dated: 21-4-1984 in Subject Mo.23/84-85 in view of the opening of the longer route under the resolution dated 18-8-1984 passed in Subject No. 92/84-85 covering the shorter route opened under the aforesaid resolution dated 21-4-1984. Both the resolutions are not appealable. They are only revisable. In Rahamathulla Vs. Karnataka State Transport Appellate Tribunal and Others, the resolution of the R.T.A. was appealable but there was no appeal preferred. Only

in such context this Court has laid down the norms for exercising revisional jurisdiction under exceptional circumstances, because the objectors having had a right of appeal, had not availed it and had allowed the resolution of the RTA to assume finality. Therefore, in a case where Revision alone lies and not an appeal, the said decision cannot be construed as restricting the scope of the power of revision u/s 64A of the Act and to such a case the decision in the aforesaid Rahamathulla Vs. Karnataka State Transport Appellate Tribunal and Others, cannot be held to apply.

9. For the reasons stated above, I do not see any justification to interfere with the impugned order dated 14th April, 1985 passed by the 2nd respondent in Revision Petition Nos. 160, 224 and 318 of 1984, produced as Annexure-C. No ground to issue Rule. Accordingly the Petitions are dismissed.