

(1966) 12 P&H CK 0018
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 2313 of 1966

Sangrur Bus Service Private Ltd.

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 02-12-1966

Acts Referred:

Motor Vehicles Act, 1939 — Section 62

Citation : AIR 1967 P&H 261

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

Bench : Single Bench

Advocate : Bhagirath Dass and Luxmi Grover, for the Appellant; K.S. Kwatra, Asst. A.G., H.R. Sodhi and K.K. Cuccria, (for No. 3), for the Respondent

Final Decision : Dismissed

Judgement

P.D. Sharma, J.—Messrs Sangrur Bus Service Private Ltd., in their petition under Articles 226 and 227 of the Constitution of India, have prayed for the cancellation of the grant of a temporary stage carriage permit for a period of 4 months for Patiala Alampur route to Messrs National Transport and Engineering Co. Private Ltd., respondent No. 3 by the Regional Transport Authority, respondent No. 2 with effect from the 28th September, 1966, vide his order of even date (annexure "A").

2. The facts giving rise to this case are these. The original two regular stage carriage permits for the above route some time back were held by the Newage Publication Bus Service Ltd., Patiala and Bedi Transport Co., Patiala, one each. The permit held by the latter became dead after 1957. The Newage Publication Bus Service applied for renewal of their regular permit No. 696/55 but their application was found time barred and thus their prayer was rejected. It was, however, decided to grant them a temporary permit for this route for a period of four months in public interest. It was also decided that applications for the grant of fresh permit against the vacancy so caused might be invited when the case of the Newage Publication Bus Service Ltd. was also to be considered. The latter

transferred their temporary permit in favour of the petitioners on 24th May, 1963.

In accordance with the decision of respondent No. 2 dated 27th February, 1963, they have been granted temporary stage carriage permits for this route from time to time after this date. Subsequently respondent No. 2 by his order which has been assailed in the present proceedings granted a temporary stage carriage permit in favour of respondent No. 3 in public interest. The petitioners alleged that the above order was illegal, contrary to the provisions of the Motor Vehicles Act and the rules made thereunder and so also against the principles of natural justice for the reason that respondent No. 2 could not grant temporary permit u/s 62 of the Motor Vehicles Act because applications were pending before him for the grant of regular permit on this route and that they were not heard by him at the time the temporary route permit was granted in favour of respondent No. 3 although he is said to have issued this temporary route permit on account of certain complaints received against their conduct.

3. Respondents Nos. 1 and 2 explained that the Patiala region being committed to cent per cent nationalisation the Pepsu Road Transport Corporation, Patiala, the only State transport undertaking in this region, was to take over operation of all the routes in the Patiala region, sooner or later. Therefore all applications for the grant of fresh stage carriage permits on regular basis were not being entertained and the applications already invited including those for the Patiala-Alampur route had not been proceeded for further action and practically stood filed. They further pleaded that the permit granted to respondent No. 3 was against the dead permit which was previously held by the Bedi Transport Co., Patiala, and that the petitioners interests while granting this temporary permit had been fully safeguarded as none of their permits or trips were curtailed.

Respondent No. 3 added that no case for the grant of any relief under the extraordinary powers of this Court under Article 226 of the Constitution had been made out as no manifest injustice could be said to have been caused to the petitioners thereby. They continued to state that if the petitioners claimed that no temporary permit could be issued under the proviso to Section 62 of the Motor Vehicles Act then the petitioners were also holding an illegal permit which indeed did not give them any locus standi to impeach the temporary permit granted in their favour.

Section 62 of the Motor Vehicles Act which governs the grant of temporary stage carriage permit runs :--

"A Regional Transport Authority may without following the procedure laid down in Section 57, grant permits, to be effective for a limited period not in any case to exceed four months, to authorise the use of a transport vehicle temporarily.

(a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or

(b) for the purposes of a seasonal business, or

- (c) to meet a particular temporary need, or
 - (d) pending decision on an application for the renewal of a permit;
- and may attach to any such permit any condition it thinks fit;

Provided that a temporary permit under this section shall, in no case, be granted in respect of any route or area specified in an application for the grant of a new permit u/s 46 or Section 54 during the pendency of the application;

Provided further that a temporary permit under this section shall, in no case, be granted more than once in respect of any route or area specified in an application for the renewal of a permit during the pendency of such application for renewal."

There is no doubt that according to first proviso temporary permit could in no case be granted in respect of any route or area specified in an application for the grant of a new permit u/s 46 or Section 54 during the pendency of the application. It is equally true that respondent No. 2 some time back had invited applications for the grant of a new stage carriage permit on Patiala-Alampur route because one of the permits held by Bedi Transport Co., Patiala had become dead, and the other also inoperative because the Newage Transport Co. had failed to apply for its renewal in time.

4. Respondents Nos. 1 and 2 in their written statement have explained that the applications invited by the second of them could be deemed to have been filed because of the decision taken to nationalise all the routes in the Patiala region and so no application for the grant of a new permit for Patiala Alampur was pending at the time the impugned temporary permit was granted in favour of respondent No. 3.

5. The learned counsel for the petitioners on the other hand referred me to the recitals in resolution No. 42, annexure "A" whereby the temporary route permit was granted in favour of respondent No. 3 which runs :--

"Applications for the grant of a permit against the vacancy caused as a result of the expiry of the other permit, were invited which were lying undisposed of on account of commitment of cent per cent nationalisation".

In his view the resolution itself shows that the applications for the grant of new route permit were pending when the temporary permit was granted to respondent No. 3. I am not prepared to accept his interpretation. If the recital is read as a whole in the light of the explanation rendered by respondents Nos. 1 and 2 in their written statement, it can be understood to mean that the applications already invited for the grant of new route permit called for no further attention and were thus dead for all intents and purposes. In the circumstances, respondent No. 2 was justified in granting temporary permit for this route for a period of four months.

6. The plea taken by respondent No. 3 that in case the petitioners claim that no

temporary permit could be issued under the proviso to Section 62 of the Motor Vehicles Act be accepted then the petitioners also were holding an illegal permit and thus were not competent to challenge the grant of another temporary permit on this route in their favour has its own significance. The learned counsel for the petitioners urged that when the temporary route permit was granted to the petitioners' predecessor Messrs Newage Publication Bus Service, no applications for the grant of new route permits on Patiala Alampur route were pending with respondent No. 2. Hence the original grant of new permit which they were enjoying and its renewal from time to time was valid in law and not affected by first proviso to Section 62 of the Motor Vehicles Act. In this connection he relied on The Madhya Pradesh State Road Transport Corporation Vs. The Regional Transport Authority, Raipur, . The Supreme Court case was considered by Grover J. in Civil Writ No. 2068 of 1966 decided on 31-10-1966 (Punj.), where he observed as under:--

"It is on the above observations that counsel for the State mainly relied for the view that even during the pendency of an application for grant of a regular permit u/s 46 a temporary permit can be issued while the formalities u/s 57 are being completed. There is an obvious fallacy in the submission made on behalf of the respondents. In the case which was decided by their Lordships, the application for the grant of a permanent permit was not pending as is obvious from the dates which have been mentioned at the time when the temporary permit was granted. To recapitulate, the temporary permit was granted for a second time for a month by an order dated 25th November, 1964, whereas in paragraph 8 of the report it is stated that the applications for a permanent permit were invited by Gazette Notification dated 14th December, 1964. It was not that reason that the first proviso to Section 62 did not come up for consideration of their Lordships. It is noteworthy that the judgment in the The Madhya Pradesh State Road Transport Corporation Vs. The Regional Transport Authority, Raipur, , was delivered by Ramaswami J. who was a party to a judgment of a Division Bench in Hari Narain Roy Vs. Regional Transport Authority and Another, , while he was the Chief Justice of that Court. I am referring to Hari Narain Roy Vs. Regional Transport Authority and Another, in which the scope of the proviso came up for consideration and the Bench laid down that there was undoubted power in the Regional Transport Authority u/s 62 to grant temporary permits to meet special situation or in special circumstances. The first proviso, however, put a limitation upon this power and forbade the grant of a temporary permit when application for a regular permit was pending.

The main object of the proviso was to prevent nepotism and undue favour to one of the applicants to the disadvantage of the other applicants. The provisions of the first proviso were mandatory and the Regional Transport Authority had no power to grant temporary permits in any case during the pendency of the application for the grant of new permits u/s 46 or Section 54. It would be reasonable to assume that Ramaswami J. while on the Bench of the Supreme Court would have noticed his earlier decision in the Patna case and would have

expressed dissent from that view if it was intended to lay down that the ambit and the scope of the proviso were different from the one expressed in the Patna decision. As I have mentioned before, the scope of the proviso or the question of its application did not come up for consideration in the The Madhya Pradesh State Road Transport Corporation Vs. The Regional Transport Authority, Raipur, for the reasons which have already been stated".

7. I am in respectful agreement with the above observations. If it be accepted that the applications for the grant of new route permit were still pending with the respondent No. 2 then the grant of temporary route permit to the petitioners was also illegal and as such they had not re-right to challenge the grant of temporary route permit by respondent No. 2 in favour of respondent No. 3.

8. For the above reasons, the writ petition falls and is dismissed with no order as to Costs.