

(1967) 10 KL CK 0004
In the High Court Of Kerala
Case No : O.P. No. 2867 of 1967

Sankara Narayana Transports

APPELLANT

Vs

Chandran and Another.

RESPONDENT

Date of Decision : 04-10-1967

Acts Referred:

Motor Vehicles Act, 1988 — Section 62, 62(d), 64(2)

Citation : (1968) KLJ 295

Hon'ble Judges : V.P. Gopalan Nambiar, J

Bench : Single Bench

Advocate : K.P. Radhakrishna Menon, for the Appellant; V.R. Krishna Iyer and K.C. Sankaran and Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

V.P. Gopalan Nambiar, J.—The 1st respondent applied for a temporary extension of route Ramanattukara- Thirurangadi Kizhakke Bazaar (served by a pucca permit) so as to ply on the Ramanattukara Parappanangadi via Thirurangadi Kizhakke Bazaar. The application was disposed of by the Regional Transport Authority, Kozhikode by Ex. P. 2 order which reads as follows:-

Heard the applicant and objector. As there is immediate and urgent need for one additional bus service, between Thirurangadi and Parappanangadi, T.P. as requested will be granted overruling objections

The grant of the temporary extension has been objected to in this writ petition on the ground that it cannot be sustained under any of the grounds for grant of a temporary permit in section 62 of the Motor Vehicles Act. Reading the order it would appear as if it was passed, under clauses (c) of section 62 which justifies the grant of a temporary permit to meet a particular temporary need. I entertain some doubt and difficulty as to whether on the actual facts, as they emerge from the records the grant in question can be justified on the ground of a particular temporary need, even as expounded by the Supreme Court in the recent decision

in the The Madhya Pradesh State Road Transport Corporation Vs. The Regional Transport Authority, Raipur, . In the said decision, on the actual facts, the Supreme Court held that a temporary need may well, co-exist with a permanent need and need not necessarily be inconsistent with the same. The petitioner's counsel stressed that on the facts of the decision before the Supreme Court, the permanent need had been found by the authority and as the satisfaction of the same by following the appropriate procedure under the Motor Vehicles Act

was bound to involve delay and consume time, the Supreme Court sustained the grant on the ground of a temporary need. In the present case, it was stressed that beyond the laconic recital that is contained in the Ex. P 2 order, there is nothing to suggest or indicate that there was in fact a permanent need on the portion of the route for which an extension was prayed for by the 3rd respondent, and that a temporary need sprang into existence by reason of any delay involved in the satisfaction of the permanent need or otherwise I refrain from pronouncing on this question, as I am of the opinion that the reliance placed by counsel for the 3rd respondent on section 62(d) of the Motor Vehicles Act, as introduced by the Madras Amending Act 20 of 1948, to sustain the impugned order is well founded, and must prevail.

2. The Madras Amending Act 20 of 1948 introduced clause (d) into section 62 of the Motor Vehicles Act reads as follows:-

62. A Regional Transport Authority may at its "discretion and 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 authorities the use of a transport vehicle temporarily-

(a). . .

(b). . .

(c). . .

(d) In such circumstances as may, in the opinion of such authority, justify the grant of such permits, and may attach to any such permit and condition it thinks fit.

In New Kerala Bus Transport, Cannanore v Regional Transport Authority (1959) K.L.J. 359) Joseph J. sustained the grant of a temporary permit under the above provision. The grant was on the ground of what really was a pucca or a permanent need, and at a time when, according to the trend of judicial decisions prevailing in this State, a temporary permit could not be granted when there was a permanent need. It was noticed in the said decision that subsequent to the Madras Amendment clause (d) had been added to the Motor Vehicles Act by the Central Act 100 of 1956, and thereafter, two clauses, both numbered as (d), stood in section 62 of the statute. The decision also noticed and rejected the argument that clause (d) introduced by the Madras Amendment must be given a restricted content so as to cover grounds analogous to those listed by clauses (a)

- to (c). I am in respectful agreement with the principle of the decision of Joseph J.
3. That the grant has not, in the instant case, been expressly rested on section 62(d) of the Madras Amendment is not material. The source of the power being there, the exercise of the power can well be referred to the appropriate source.
4. Counsel for the petitioner argued that section 62(d) introduced by the Madras Amending Act 20 of 1948, must be regarded as being inconsistent with, or as having been repealed by, the central Amendment Act 100 of 1956. I am unable to discern either any inconsistency or any implied repeal. Clause (d) introduced by the Central Amendment Act 100 of 1956, provided for the grant of a temporary permit pending decision on an application for renewal of a permit. The provision introduced by clause (d) of the Madras Act does not in any way conflict with the provisions introduced by the Central Act. The field covered by the Central Amendment is also different from the field of operation of the Madras Amendment. I am unable to see any case of any implied repeal.
5. Counsel for the petitioner relied on the statement of Objects and Reasons is an aid to construction is but little, that of the notes, on clauses, if at all, is infinitely less. The statement of objects and reasons contains nothing on this point. Reliance is placed on clause 55 of the Notes on clauses.
- Clause 55. The amendment in sub-clause (c) provides that a temporary permit may also be granted pending the decision on an application for the renewal of a permit, which is sometimes subject to delay. The amendments in sub-clauses (d) will have the effect of overriding the amendments made by the State Government to section 62 of the Act.
- The Statement in my view is hardly decisive of the question of any implied repeal. Two decisions appear to be relevant on this question. In *Calicut Wynad Motor Service (Private) Ltd., v State Transport Appellate Tribunal, Trichur* 1957 KLT 685) Raman Nayar J. held that section 64(2) of the Motor Vehicles Act, as amended by the Madras Act 39 of 1954 was not inconsistent with the section 64-A introduced by the Central Act 100 of 1956. Both the provisions conferred a right of revision. In *Tansukh Rai Jain Vs. Nilratan Prasad Shaw and Others*, , the Supreme Court held that Section 64A introduced in the Motor Vehicles Act by an amendment of the Bihar Legislature is neither void, nor inconsistent with, section 64A of the Act, introduced by the Union Legislature. On the principle of the above decisions, I hold that section 62(d) introduced by the Madras Amending Act 20 of 1948, is neither inconsistent with, nor has it been repealed by, section 62(d) introduced by the Central Amendment Act 100 of 1956.
6. As the impugned order Ex. P 2 can in my opinion be sustained u/s 62(d) of the Act introduced by the Madras Act 20 of 1948, I see no ground for interference. I dismiss this writ petition, but make no order as to costs.