
(1978) 05 MP CK 0001

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 84 of 1978

Sardar Jogender Singh

APPELLANT

Vs

State Transport Appellate Tribunal (M.P.) Gwalior and Others

RESPONDENT

Date of Decision : 05-05-1978

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1981) ILR (MP) 636 : (1978) JLJ 657 : (1978) MPLJ 703

Hon'ble Judges : G.P. Singh, J; C.P. Sen, J

Bench : Division Bench

Advocate : Y.S. Dharmadhikari, for the Appellant; P.C. Pathak, for the Respondent

Final Decision : Allowed

Judgement

C.P. Sen, J.

This is a petition under Article 226 of the Constitution of India, for quashing the order of the State Transport Appellate Tribunal, M.P. Gwalior, whereby the permit of the Petitioner has been curtailed.

As per the reciprocal agreement between the State of Madhya Pradesh and the State of Uttar Pradesh, one return trip permit for the route Jhansi to Khajuraho via Mauranipur, Nowgong, Chhatarpur, Bamitha could be granted to an operator from the State of Madhya Pradesh and one such permit could be granted to an operator from the State of Uttar Pradesh. It appears that subsequently one permit was made into two permits, which could be granted either way. The Petitioner applied for grant of a return trip permit on this route, which was rejected by the Regional Transport Authority, Rewa, on 7-11-1966. However, a permit was granted to the Madhya Pradesh State Road Transport Corporation (hereinafter referred to as the Corporation). The Petitioner preferred an appeal before the State Transport Appellate Authority, which by Order dated 6-8-1968 granted one return trip permit of this route to the Petitioner, while maintaining

the permit of the Corporation. The permit was granted for three years and was to expire on 5-9-1971. It may be mentioned that the Corporation published a draft Scheme No. 30, u/s 68-C of the Motor Vehicles Act, 1939, on 12-2-1965. Amongst the routes to be nationalised was the Rewa to Harpalpur route. The portion from Alipur to Bamitha of the permit of the Petitioner fell within the route Rewa to Harpalpur. Alipur is a place between Mauranipur and Nowgong. In the proposed Scheme the interstatal route of Jhansi to Khajuraho was included at serial No. 47. After considering the objections to the proposed Scheme, the Special Secretary (Home) of the Government of Madhya Pradesh passed an order dated 8-3-1967 omitting all the interstatal routes on the Scheme No. 30, as several operators on the interstatal routes were not included in the proposed Scheme. The approved Scheme was published in the Madhya Pradesh Rajpatra dated 24-3-1967. The Corporation proposed another Scheme No. 30 M, which was published in the Madhya Pradesh Rajpatra dated 13-11-1970. In this Scheme, the interstatal route of Jhansi to Khajuraho was included.

Before the expiry of the permit, the Petitioner applied for first renewal and the renewal was objected to by the Corporation on the ground that the route was partly covered by the approved Scheme No. 30 and fully by the proposed Scheme No. 30-M. However, the State Transport Authority overruled the objection holding that the approved Scheme No. 30 did not apply to the interstatal routes and since the permit of the Petitioner expired after the publication of the proposed Scheme No. 30-M. the Petitioner was entitled to renewal of his permit u/s 68-F(1-D) of the Act. The permit was renewed for a period of three years from 6-9-1971 to 5-9-1974. The Petitioner again applied for second renewal of his permit within time and the Corporation again raised an objection, which was not accepted. The State Transport Appellate Tribunal renewed the permit for another three years from 6-9-1974 to 5-9-1977. However, one condition was imposed that the permit shall cease to be effective on the publication of the approved Scheme No. 30 M. Again the Petitioner applied for third renewal of his permit within time and this time the Corporation and also the Respondent No. 3 filed their objections. It may be mentioned that the Respondent No. 3 holds a permit of this route as a nominee of the Uttar Pradesh State. Since the renewal could not be granted before the expiry of the permit, a temporary permit was granted to the Petitioner for four months. The temporary permit was quashed by the State Transport Appellate Tribunal, but the order of the Appellate Tribunal was stayed by the High Court in a Writ Petition filed by the Petitioner. In the meanwhile by order dated 3-11-1977 the Petitioner's permit was renewed for Another period of three years from 6-9-1977 to 5-9-1980. Against the renewal the Respondent No. 3 preferred an appeal before the Appellate Tribunal. The appeal was treated as a revision and it was allowed. The Petitioner's permit has been curtailed for the portion Alipur to Bamitha on the ground that the portion is covered by the approved Scheme No. 30. Aggrieved by this order, this petition has been filed by the Petitioner.

The Petitioner has challenged the impugned order of the Appellate Tribunal on

the ground:

(i) that the approved Scheme No. 30 was not a Scheme of exclusive operation. but of conjoint operation and all interstatal routes were exempted from the operation of the Scheme. The Scheme will have to be read along with the order of the Special Secretary dated 8-3-1967;

(ii) that the approved Scheme No. 30 and the proposed Scheme No. 30-M having force of law, the Petitioner's permit is covered only under the proposed Scheme No. 30-M, and as such the Petitioner is entitled to renewal of his permit u/s 68-F(1-D) of the Act as his permit expired after the publication of the proposed Scheme No. 30-M, during the pendency of the approved Scheme.

The petition is being opposed by the Respondent No. 3, who is supporting the order of the Appellate Tribunal contending that the initial grant to the Petitioner itself was void ab initio being hit by the approved Scheme No. 30 and as such, he could not have been granted the permit nor the renewals.

After hearing the learned Counsel for both the parties, we are of the opinion that the order of the Appellate Tribunal cannot be sustained. It is true that under Clause (5) of the approved Scheme No. 30, all road transport services are to be provided by the Corporation exclusively between Rewa and Harpalpur, Chhatarpur-Kishangarh, Satha-Raigaon and Rewa to Gaddi. But Clause (3) provides that the provisions of the Transport Service otherwise than under the Scheme is prohibited except that the vehicle plying under the terms of reciprocal transport agreement with the State of Uttar Pradesh covering portions of the routes mentioned in Clause (2) above being subject to and governed by the reciprocal transport agreement between the States of Madhya Pradesh and Uttar Pradesh. The portion of Alipur to Bamitha falls within the nationalised route Rewa to Harpalpur. The Appellate Tribunal relied on Clause (5) in holding that the renewal cannot be granted for the portion Alipur to Bamitha because it falls within the route Rewa to Harpalpur, which is an exclusive operation by the Corporation under the Scheme. Clause (3) mentioned above has been interpreted to mean that only those vehicles which were plying when the order of the Special Secretary was passed or the approved Scheme was published, are alone exempted, and as the permit of the Petitioner was not in existence, he could not have been granted the permit for the portion Alipur to Bamitha. The Appellate Tribunal was also of the opinion that since there was so ambiguity in the approved Scheme No. 30, it was not permissible to look into the order of the Special Secretary dated 8-3-1967 in order to understand the true scope of the Scheme. It is true that it is a cardinal rule of construction that where the words are clear and unambiguous, effect should be given to them according to their natural sense and plain meaning, uninfluenced by extraneous considerations. However, if the language of the document is not itself precise or is ambiguous or of doubtful, recourse may be had to extraneous considerations, the known opinions of the grantor, the existing state of law, the contemporaneous usage or the like. The Supreme Court in *Samrathmal Keshrimal Agarwal, Bus Operator Vs.*

Regional Transport Authority, Indore and Another, has held that "if, therefore, Clause (5) of the Scheme as originally published and the modifications made therein by the Secretary by para 10 of his order were to be read together, as they must be, because the R.T.A. was bound by the Scheme approved by the Government, then, in consonance with the reasoning adopted by the High Court, the High Court could not have limited the scope of its order only to the sector between Badnawar and Dhar, but should have extended it over the entire route from Ratlam to Dhar and to Kukshi".

Clearly, therefore, the approved Scheme has to be read along with the order of the Special Secretary dated 8-3-1967 in the present case. In para 11 of his order the Special Secretary clearly held that two permit holders running on interstatal routes, have not been included in the Scheme and, therefore, it would be necessary to eliminate from the Scheme all the interstatal routes to avoid discrimination. Accordingly all interstatal routes were dropped including that on the route Jhansi to Khajuraho, mentioned at serial No. 47 in the proposed Scheme. The approved Scheme No. 30 was construed and understood to be so by the Corporation and also by the State Transport Appellate Authority and, therefore, three renewals were granted to the Petitioner. It was not open to the Respondent No. 3 to have raised his objection at the stage of third renewal when he himself holds a permit of this route as a nominee of the State of Uttar Pradesh. As such, the interstatal route Jhansi to Khajuraho is not covered under the approved Scheme No. 30. This route is now included in the proposed Scheme No. 30-M. But in view of Sub-section (1-D) of Section 68-F of the Act, the Petitioner is entitled to renewal of his permit as his permit expired after the publication of the proposed Scheme. It is true that under Clause (3) of the approved Scheme No. 30, vehicles plying on the interstatal routes have alone been exempted from the operation of the Scheme. A Division Bench of this Court in Deen Dayal Mahton v. State Transport Appellate Tribunal, U.P. and Ors. Misc. Petition No. 728 of 1972 decided on the 12th February 1973 did not accept the contention that the word "plying" means plying at the time of publication of the Scheme and it does not cover such transport services as were not in operation at the time of publication of the Scheme. The word "plying" has to be construed in the context it occurs. By the order of the Special Secretary, all interstatal routes have been excluded. Therefore, the vehicles "plying", means which were plying on the date of publication of the Scheme or which may be plying thereafter.

For the reasons aforesaid, we allow this petition with costs and quash the impugned order of the Appellate Tribunal curtailing the permit of the Petitioner. Counsel's fee shall be Rs. 200, if certified. The outstanding amount of the security deposit, if any, shall be refunded to the Petitioner. The Petitioner's costs to be paid by the Respondent No. 3.