

(1958) 11 KAR CK 0005
In the Karnataka High Court
Case No : Writ Petition No. 330 of 1958

Sharanappa Basappa Gole

APPELLANT

Vs

Secretary, Regional Transport Authority, Gulbarga Region and
Another

RESPONDENT

Date of Decision : 06-11-1958

Acts Referred:

Motor Vehicles Act, 1939 — Section 62

Citation : AIR 1959 Kar 226 : (1958) ILR (Kar) 127

Hon'ble Judges : M. Sadasivayya, J;A. Narayana Pai, J

Bench : Division Bench

Advocate : B.V. Deshpande, for the Appellant; B. Venkataswami, Govt. Pleader,
for the Respondent

Judgement

Narayana Pai, J.—The petitioner impugns on two grounds the validity of a temporary permit granted by the 1st respondent the Secretary, Regional Transport Authority, Gulbarga Region, Culbarga, to the 2nd respondent, the Mysore Government Road Transport Department, to run a stage carriage service on the route Gulbarga to Afzalpur via Chanigapur for 4 months ending on 24-11-1958.

The first ground is that the petitioner had applied for a pucoa permit on 18-7-1958, that is about a fortnight before the application by the 2nd respondent, in respect of the route Ghanipur to Afzalpur and that, therefore, the said temporary permit ought not to have been granted during the pendency of the petitioner's application. The second ground is that neither the 2nd respondent's application for a temporary permit nor the order of the 1st respondent granting the application discloses or states any reason which would bring the case within the provisions of Section 62 of the Motor Vehicles Act.

2. We will take up the second ground for consideration first. u/s 62 of the Act temporary permits can be granted only if the circumstances mentioned therein exist. In respect of such applications all the elaborate procedure prescribed for

the grant of permanent or pucca permits is waived. It is, therefore, clear to us that when the statutory safeguards or advertisement and consideration of all representations and relevant factors are waived in the special circumstances stated in Section 62, the power to grant temporary permits under that Section cannot be exercised unless the specific and particular circumstances stated therein do exist.

The copy of the 2nd respondent's application filed with this petition shows that no reasons have been stated in support of the application. The Rules prescribe a special form of application for temporary permits, No. 24. That form requires the applicant to state "the purpose for which the permit is required". The second respondent does not appear to have used that form at all. The order of the 1st respondent on that application is equally devoid of all details necessary to examine its validity.

It has been argued on behalf of the 2nd respondent that it is not legally necessary or compulsory for the authority granting a temporary permit to state the reason, if a reason is stated in the application and the order is endorsed on it. According to this argument, the very fact that the permit was granted by an endorsement on an application which states the reason can be taken to mean that the authority granting the permit has accepted that reason.

It is difficult for us to agree with this contention. As already stated, the very foundation for exercising jurisdiction u/s 62 is the existence of special circumstances stated therein. In our opinion it is not sufficient merely to endorse an order on an application. The authority passing the order must apply its mind to the application, find positively that one or other of the circumstances mentioned in Section 62 do exist and thereupon pass an order.

3. None of those requirements having been satisfied, it has to be held that the issue of a temporary permit impugned in this case cannot be sustained. As this concludes the controversy, it is unnecessary to consider the first ground pressed before us.

4. It is brought to our notice that the operation of the order had been stayed all these days since the admission of this writ Petition and that the period during which the permit was to be in operation expires on the 24th of this month. It is further pointed out that the petitioner himself will cease to have interest because the permit under which he has been operating his service on a portion of the route is due to expire to-day. It is, therefore, unnecessary to issue a writ in these circumstances.

5. The 2nd respondent will, however, pay the costs of the petitioner. Advocate's fee Rs. 100/-.

6. Order accordingly