
(1984) 11 GAU CK 0009
In the Gauhati High Court
Case No : Civil Rule No. 662 of 1984

Shri Gurudas Paul

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 16-11-1984

Acts Referred:

Motor Vehicles Act, 1939 — Section 44, 60, 60(1), 64, 64(1)

Citation : (1985) 1 GLR 6

Hon'ble Judges : K.M. Lahiri, Acting C.J.; T.C. Das, J

Bench : Division Bench

Advocate : S. Birmiwal and B. Agarwalla, for the Appellant; A.S. Bhattacharjee, Addl. Sr. Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

K. Lahiri, A.C.J.

1. We propose to dispose of the applications together as they involve common questions of law and fact. We have heard Mr. S. Birmiwal, learned Counsel for the Petitioners as well as Mr. A.S. Bhattacharjee, learned Addl. Senior Govt. Advocate, Assam at length.

2. Purporting to act u/s 60 of the Motor Vehicles Act, 1939, the Regional Transport Authority suspended the permit of the Petitioners public carrier motor vehicles for a period of six months. The competent authority may suspend permit "for such period as it thinks fit" under Clauses (a) to (f) of Sub-section (1) of Section 60 of "the Act".

3. The allegations against the Petitioners were that their vehicles carried contraband logs/timbers. Neither the show cause notice issued to the Petitioners by the Regional Transport Authority nor the resolution of the Regional Transport Authority, Dhubri indicates which of the six claims of Sub-section (1) of Section 60 of "the Act" the Petitioners had breached. The Regional Transport Authority cancelled the permits for a period of six months as it thought fit. The Petitioners

appealed to the State Transport Appellate Tribunal, Assam, u/s 64 of "the Act". The appeals were registered as appeal Nos. 13 of 1984 and 14 of 1994. The appeals of the Petitioners were heard along with many other similar appeals by the learned appellate Tribunal. We extract the order rendered by the learned Tribunal in Appeal No. 13 of 1984:

In case of Appeal No. 13 of 1984 the Appellant, owner of Public Carrier Truck No. ASG 2955 was found on 30.5.84 carrying contraband Sal logs out of the Rupashi Forest Range which was detected by Shri N.K. Sinha, Forest Range Officer, D.F.O., Dhubri Division reported the matter to R.T.A. and the R.T.A. vide their letter No. DRTA/83/2331-34 dated 19.8.83 asked the Appellant to show cause as to why action should not be taken against him. That on 25.8.83 the Appellant submitted his explanation and thereafter, on 14.9.83 under letter No. DRTA/83/2950/3232 the R.T.A. asked the Appellant to appear before the meeting of the R.T.A. on 1.10.83. The R.T.A. was not satisfied with the explanation of the Appellant and his, permit was suspended for a period of six months.

After carefully going through the memo of Appeal and after bearing the learned Counsel for the Appellant we find no substance in the Appeal and as such, the Appeal is disallowed.

4. The order rendered in Appeal No, 14 of 1984 was precisely the same or similar. It is seen from the order that the learned Tribunal jotted down the substance of the allegations and also considered that explanation submitted by the Petitioner-Appellant and also observed that the R.T.A. was not satisfied with the explanation and suspended the permit of the Petitioner for a period of six months. It is apparent from the order that the learned Tribunal merely Recorded that he did not find any substance in the appeal and accordingly it was disallowed. Similar was the nature and character of the order rendered by the Learned Tribunal in Appeal No. 14 of 1984.

5. Section 44 of "the Act" provides the right of appeal and the State Transport Appellate Tribunal constituted u/s 64(2) of "the Act" Law been empowered to hear and dispose of such appeal. He is required to give the parties an opportunity of being heard and thereafter "give a decision thereon". There is a stamp of finality in the "decision" so rendered. The crucial question is whether this is a decision rendered as contemplated u/s 64(1) of "the Act"? A decision is a determination arrived at by an authority for consideration of facts, and in legal context, "law", determination of a official or quasi-judicial nature and not merely expression of his opinion. In the context in which the term "decision" has been used in Sub-section (1) of Section 64 of "the Act", it is clear that coupled with the opinion or conclusion, the appellate Tribunal is to give reasons for the decision. The order must be a speaking order.

6. We merely pose the following question:

1. Whether the suspension of the permits was under one of the clauses of Section 60 of "the Act"?

2. Whether the imposition of penalty could be imposed before determination of the criminal cases pending in the criminal courts?
3. What materials were produced by the Regional authority to satisfy the appellate authority that there was a case for suspension?
4. What were the reasons for rejection of the cases of the Petitioner Appellants?
5. Why the cancellation was for six months and not for a lesser period or as to why some other penalty not be imposed?
7. Further and other questions are there, which we do not desire to pose them. We do not find any answer to any of the question, Under these circumstances, we are constrained to hold that the orders rendered by the appellate Tribunal in Appeal Nos. 13 of 1984 and 14 of 1984 must be quashed and the matter may be remitted to the appellate Tribunal for rehearing of appeals after giving adequate opportunities to the parties as required under the law and to dispose of the appeals after giving reasons for decision.
8. We have rendered this order upon hearing the learned Counsel for the parties for expeditious disposal of the cases and to uphold the cause of justice of the Petitioners as well as of the Respondents. A delayed decision may affect the Petitioners as well as the Respondents.
9. While dealing with the nature of power of the appellate authority, a Division Bench of this Court, of course in a different situation, observed that reason must be given in a decision of the appellate authority (sic)g u/s 64(1) of the Act. Dhananjay Das and Another Vs. The Chairman, Appellate Board constituted under the Motor Vehicles Act, 1939 and Another , is just one of such authorities. Their Lordships relied on Nagendra Nath Bora v. Commissioner of Hills Division AIR 1958 S.C. 391.
10. For the foregoing reasons we quash the order passed by the learned Tribunal in Appeals No. 13 of 1984 and 14 of 1984 on 12.9.84. Learned Tribunal shall bear the parties and dispose of the appeals in accordance with law. We grant liberty to the Respondents to apply for amendment, alteration or cancellation of this order, if so advised, before a final decision is given by the learned Tribunal.
11. In the result, the petition is accepted.