
(2018) 03 BOM CK 0185
In the Bombay High Court
Case No : Writ Petition No. 361 of 2018

Shri Khurram Khazi	Vs	APPELLANT
Regional Transport Authority and Ors.		RESPONDENT

Date of Decision : 28-03-2018

Acts Referred:

Motor Vehicles Act, 1988 — Section 89(a)
Goa Motor Vehicles Rules, 1991 — Rule 67(3)

Citation : (2018) 03 BOM CK 0185

Hon'ble Judges : C. V. Bhadang, J

Bench : Single Bench

Advocate : Balkrishna Sardessai, Sonali Ghadi, Deep Shirodkar, J. A. Lobo

Final Decision : Allowed

Judgement

1. Rule, made returnable forthwith.Â The learned Additional Government Advocate waives service for the respondent nos.1 and 2.Â Shri Lobo, the learned Counsel waives service on behalf of the respondent no.3.Â Heard finally by consent of parties.

2. The challenge in this petition is to the order dated 03/01/2018, passed by the Principal District Judge/ State Transport Appellate Tribunal (Tribunal, for short) in STAT Appeal No.2/2016.Â The appeal filed by the petitioner before the Tribunal has been dismissed as being barred by limitation and for nonproduction of a certified copy of the order, passed by the Regional Transport Authority (RTA).

3. The brief facts are that the petitioner and the third respondent had applied for Yellow- Black Taxi permit under Rule 67(3) of the Goa Motor Vehicles Rules, 1991 (Rules, for short). The RTA by an order dated 25/10/2016, decided to grant the permit to the third respondent, rejecting the

application of the petitioner. Feeling aggrieved, the petitioner approached the Tribunal by filing an appeal under Section 89(a) of the Motor Vehicles

Act, 1988 (the Act, for short). The third respondent appeared before the Tribunal and raised a preliminary objection claiming that the appeal is barred

by limitation and is also bad for non-production of certified copy of the order of the RTA.Â The Tribunal upheld the preliminary objection on both

counts and dismissed the appeal, which brings the petitioner to this Court.

4. I have heard Shri Sardessai, the learned Counsel for the petitioner and Shri Lobo, the learned Counsel appearing for the third respondent. I have

also heard Shri Shirodkar, the learned Additional Government Advocate for the respondent nos.1 and 2.

5. It is contended by Shri Sardessai, the learned Counsel for the petitioner that the copy of the order passed by the RTA was never served on the

petitioner.Â It is pointed out that the petitioner was only served with an intimation dated 28/10/2016, by which the petitioner was informed about the

rejection of his application. It is submitted that the petitioner, thereafter, applied to the RTA under the Right to Information Act (RTI Act) and a copy

of the order was furnished to the petitioner under the RTI Act on 23/11/2016.Â It is, thus, submitted that the appeal was filed within 30 days from the

receipt of the copy and it was well within time.Â It is submitted that under Rule 98 of the Rules, an appeal to the Tribunal has to be filed within 30

days from the date of receipt of the order.Â It is, thus, submitted that the Tribunal was in error in holding that the appeal was barred by limitation.Â

It also erred in holding that the appeal was bad for non-production of the certified copy when indeed the copy obtained by the petitioner under RTI

Act was enclosed with the appeal memo.

6. Shri Lobo, the learned Counsel for the third respondent submitted that the appeal was not filed within 30 days from the date of the order and was

thus, barred by limitation.Â It is submitted that the copy obtained by the petitioner under the RTI Act cannot be said to be a certified copy and thus,

the Tribunal was justified in holding that the appeal was barred by limitation as also it was bad for non-production of the certified copy. Shri Lobo, the

learned Counsel for the third respondent has pointed out that under Rule 99 of the Rules, a party is entitled to obtain certified copy from the RTA,

which is not done by the petitioner in this case.

7. I have carefully considered the circumstances and the submissions made and have gone through the impugned order of the Tribunal.

8. Admittedly, a copy of the order was not furnished or served on the petitioner along with the intimation dated 28/10/2016. By the said intimation,

the petitioner was only informed that the RTA had decided to reject the application of the petitioner. A bare perusal of Rule 98 of the Rules would

show that it envisages filing of an appeal within 30 days from the date of 'receipt of the order'. Even otherwise, a party would not be in a position to

file an appeal unless a copy of the impugned judgment and order is available with the party. A mere intimation about dismissal or allowing of the

application would not be sufficient in as much as the party must know the reasons for which the application was rejected before it can challenge the

order before the Tribunal. It is now well settled that the knowledge of any judgment or order is knowledge of the contents of such judgment or

order and the reasons articulated and the findings recorded in the order, which is sought to be challenged. That apart, the rule itself provides for filing

of the appeal within 30 days from the receipt of the order and not mere intimation. The petitioner obtained the copy of the order under RTI Act,

which was furnished to him on 23/11/2016. The appeal was filed on 02/12/2016. Thus, the appeal was filed within 30 days from the receipt of the

copy of the order. The order was supplied by the RTA and bears an endorsement about it being a true copy. It is nobody's case that the order

produced along with the appeal was not in fact the order passed by the RTA. In that view of the matter, I find that it could not be said that the

appeal was not accompanied by a certified copy of the order of the RTA. Reliance placed on behalf of the respondent on Rule 99 is misplaced,

which envisages supply of copy of the documents to persons interested in appeal or revision. A bare perusal of rule 99 shows that it

would come into play after filing of the appeal or revision and for obtaining the copies of the documents filed with the RTA. In any case, it would be

highly unjust first not to supply an aggrieved person a copy of the order and when he obtains the same under the RTI to say that it is not a certified

copy. In such circumstances, I find that the petition has to succeed.

9. In the result, the following order is passed :

The petition is allowed. The impugned order is hereby set aside. STAT Appeal

No.2/2016 is restored back to the file of the learned Principal District

Judge at North Goa, for disposal according to law. Parties to remain present before the learned Principal District Judge on 16/07/2018 at 10.00 a.m.