
(1978) 09 MP CK 0028

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 89 of 1978

Shyam Sunder Dhanna Singh

APPELLANT

Vs

Regional Transport Authority, Gwalior

RESPONDENT

Date of Decision : 25-09-1978

Acts Referred:

Motor Vehicles Act, 1988 — Section 47, 47(1), 47(3), 48

Citation : (1980) JLJ 34 : (1979) MPLJ 613

Hon'ble Judges : K.K. Dube, J;H.G. Mishra, J

Bench : Division Bench

Advocate : J.P. Gupta, for the Appellant; N.P. Mittal, for the Respondent

Final Decision : Dismissed

Judgement

K.K. Dube, J.

The only important question raised in this petition is whether in the circumstances of the case, the Regional Transport Authority was bound to hear the petitioner before passing an order determining the number of stage carriages for which permit may be granted on Guna-Padon route, u/s 47(3) of the Motor Vehicles Act.

The petitioner was already having a permit to run a stage carriage on Padon to Panwari via Kapasi, Fatehgarh and Guna route. Padon to Guna is 80 Kms. A good part of this route is covered by the permit for Padon to Panwari route. On 20-9-1975, the Regional Transport Authority, Gwalior passed an order holding that there was a scope for return trips on Guna-Padon route. The petitioner filed a revision against this order before State Transport Appellate Tribunal, Gwalior. The revision was allowed and the order of the Regional Transport Authority was quashed for the reason that the order of Regional Transport Authority did not describe the exact run of the route. For reaching Guna from Padon, there are two routes : one is a direct route via Fatehgarh, Bhora, Bana, Jhagar, Supakheri and the other which is longer is via Fatehgarh, Rampur and Khyawaon. The Regional

Transport Authority had not specified as to which of the two routes was referred in his order. The matter was, therefore, remanded and the Regional Transport Authority Gwalior now specified the route and determined the number of stage carriages that should run on the route. The Regional Transport Authority found scope for two return daily trips on this route with which we are concerned and may be described as Guna-Padon via Kusmoda, Gordha, Sufakheri, Jhagar, Bana, Bhora, Fatehgarh, Rangpur, Kapasi and Dhimarpura. The Regional Transport Authority thereafter invited applications for the said route u/s 57(c) of the Motor Vehicles Act.

The petitioner seeks to challenge this order on the ground that the Regional Transport Authority ought to have heard him before determining the scope on the said route as he was the existing operator on the route, a good part of which over-lapped the route for which a permit had been granted to him. The order adversely affected him.

It may be made clear at the outset that though most of the length of the route for which the Regional Transport Authority had limited the number of stage carriages u/s 47(3) of the Act over-lap the route covered by the permit of the petitioner for Padon to Panwari, a small portion between Dhimarpura and the main road and the bifurcation to Kismoda to Guna is not covered by the petitioner's permit. The grievance of the petitioner is that when at his instance in revision the order of the Regional Transport Authority determining the scope on the route had been quashed, it was manifest that he was interested in the question of scope on the route and rules of natural justice required that the Regional Transport Authority while thus determining the scope on the route ought to have noticed him and he was heard before the final order was passed. In *Lakshmi Narain Agarwal Vs. State Transport Authority, U.P. and Another*, , the Supreme Court observed that the existing operator on the route would be a person aggrieved and was entitled to challenge the order passed u/s 47(3) of the Motor Vehicles Act by the Regional Transport Authority. The fact that petitioner was aggrieved was demonstrated by the revision made by him. Under the circumstance, it is urged that the petitioner ought to have been heard before the order was passed. The petitioner has relied on *Gobald Motor Services (P.) Ltd., Mettupalayam Vs. Regional Transport Authority, Coimbatore*,

Under the Motor Vehicles Act, the State is enjoined to co-ordinate road and rail transport and prevent deterioration of road system and uneconomic competition among the motor vehicle owners. The State is given all the powers to control road transport having regard to the advantages offered to the public, trade and industry by the development of motor transport. The Regional Transport Authority to achieve the above purposes fixes the number of stage carriages that should run on a particular route. He has to objectively determine this and pass an administrative order. The jurisdiction of the Regional Transport Authority exercising powers u/s 47(3) would be different from the one exercised u/s 57(3) and the Regional Transport Authority is not required to hear any one while

limiting the number of stage carriages on the route. The procedure of hearing applications and representations is not applicable while exercising powers u/s 47(3). The matter is wholly concluded by the decision in Mohd. Ibrahim, etc. Vs. The State Transport Appellate Tribunal, Madras, etc., . The Supreme Court while deciding the nature of the jurisdiction of Regional Transport Authority u/s 47(3) analysed the scheme and laid down that it was not required to hear any person while determining the limit of the stage carriages that were to run on a particular route, notwithstanding that the order has to be passed after objectively determining the scope. The Supreme Court observed as under :--

Section 47(3) of the Act, on the other hand, speaks only of the matters mentioned in sub-section (1) which a Regional Transport Authority may have regard to while limiting the number of stage carriages. The total absence in section 47(3) of the Act of any reference to representations mentioned in section 47(1) of the Act indicates that a Regional Transport Authority u/s 47(3) of the Act is not required to take into consideration any representations of the nature mentioned in section 47(1) of the Act. Representations mentioned in section 47(1) of the Act are referable to representations contemplated in section 57(3) of the Act. These representations are those made by operators to the Regional Transport Authority after the publication of an application for a stage carriage permit. In view of the provisions of the Act and, in particular section 48 of the Act which enacts that a Regional Transport Authority subject to the provisions of section 47 may grant a stage carriage permit, it is manifest that representations contemplated in sections 47(1) and 57(3) of the Act are representations subsequent to the application for grant of permit, and, therefore, these representations do not at all enter the field of determination of number of stage carriages u/s 47(3) of the Act. Representations mentioned in section 47(1) of the Act relate to representation by and between the competitors and contenders for grant of a permit. There individual representations raise rival contentions between operators. When the Regional Transport Authority acts u/s 47(3) of the Act it does not deal with any dispute between operators. The Regional Transport Authority is required to arrive at its decision u/s 47(3) of the Act having regard to matters mentioned in section 47(1) of the Act independent of any representation by operators or any hearing. The deliberation as well as the decision of the Regional Transport Authority u/s 47(3) of the Act is confined to its own administrative policy and order. The Regional Transport Authority in limiting the number of stage carriage permits u/s 47(3) of the Act may address itself to the matters enumerated in sub-section (1) of section 47 of the Act and the said authority is not required to hear operators at the time of the consideration of determining the limit of number of permits.

(Para. 7).

Dealing with the right of an operator who was aggrieved by the determination of the scope, the Supreme Court in the above case held that neither the right of appeal nor the right to apply for revision is itself decisive of the true function of

Regional Transport Authority to whether the said Authority has to grant hearing to persons at the time of fixing the limit of number of stage carriage permits. The Regional Transport Authority while acting u/s 47(3) of the Act is the matter of its own procedure because it does not deal with individual or competing rights of operators but is required to arrive objectively at its own conclusion independent of any application or representation by operators. The Supreme Court concluded by saying:

We are of opinion that the Regional Transport Authority is not obliged to hear operators while exercising jurisdiction u/s 47(3) of the Act in fixing the limit of number of stage carriage permits.

We think that merely because the petitioner on an earlier occasion challenged the order of the Regional Transport Authority determining the scope u/s 47(3) of the Act before the State Transport Appellate Tribunal, the Regional Transport Authority seized of the matter in remand, was not obliged to hear him. It would also be seen that the remand was made because the Regional Transport Authority did not specify the exact line of the route. The fact that the petitioner is interested in the route and that he had earlier challenged the order in revision passed by Regional Transport Authority u/s 47(3) of the Act does not, in any way, clothe him with such a right as necessitated the Regional Transport Authority to give him notice and to hear him before passing the order. The distinction sought to be made out between the petitioner's case and other operators' is without substance in so far as the procedure to be followed by the Regional Transport Authority u/s 47(3) is concerned.

It was then faintly argued that the impugned order of the Regional Transport Authority is not a speaking order. Having gone through the order, we find that the Regional Transport Authority has given reasons why he finds that more permits should be granted on the route in question. The reasons are there in the order and we do not think that the order can be struck down for any reason.

No other point has been argued which requires our consideration.

We, therefore, dismiss this petition, with costs. Counsel's fee Rs. 100, if certified. The balance of security amount, if any, be refunded to the petitioner.