

(1962) 10 KAR CK 0002
In the Karnataka High Court
Case No : Writ Petition No. 187 of 1962

S.M. Shinde

APPELLANT

Vs

S.B. Bagli and Another

RESPONDENT

Date of Decision : 25-10-1962

Acts Referred:

Motor Vehicles Act, 1939 — Section 57 (3), 57 (8), 64 A

Citation : AIR 1963 Kar 261 : AIR 1962 Kar 261 : (1963) 1 MysLJ 392

Hon'ble Judges : Mir Iqbal Hussain, J;A.R. Somnath Iyer, J

Bench : Division Bench

Advocate : B.V. Deshpande, for the Appellant; D.M. Chandrasekara, Govt. Pleader for Respondent No. 2 V.S. Malimath, for the Respondent

Judgement

A.R. Somnath Iyer, J.—The petitioner was an operator of a public carrier vehicle on the route between Bijapur and the frontier of the Mysore State. On July 1, 1961, the Regional Transport Authority, Bijapur was instructed by the State Transport Authority to call for applications for the purpose of selecting persons who should be authorised to extend their operation from the frontier to the City of Bombay. On September 14, 1961, those applications were notified by the Regional Transport Authority, Bijapur by means of a Notification. The petitioner and 99 others were the applicants. After considering those applications and after hearing the applicants, the Regional Transport Authority made a recommendation to the State Transport Authority that the petitioner may be granted the extension of service. Against that recommendation made by the Regional Transport Authority, respondent 1 presented what we consider to be an extremely misguided revision petition to the State Transport Appellate Tribunal, and that patently misconceived revision petition was entertained and allowed by the State Transport Appellate Tribunal. The direction given by the Tribunal was that the Regional Transport Authority should publish the applications received by it u/s 57 (3) of the Motor Vehicles Act and then to decide to whom the extension of service should be given by the adoption of the procedure prescribed in that Section. The result was that the recommendation made by the Regional

Transport Authority to the State Transport Authority lapsed and the Regional Transport Authority had now to proceed with the matter as directed by the State Transport Appellate Tribunal.

In this writ petition presented by the petitioner the order made by the State Transport Appellate Tribunal is challenged on two grounds; the first is, that no revision petition was possible to the State Transport Appellate Tribunal u/s 64-A of the Motor Vehicles Act since such revision petition could be preferred only in respect of an order made by the Regional Transport Authority. Since what the Regional Transport Authority did was merely to make a recommendation and since that authority had made no order against which a revision lies, Mr. Shetty appearing on behalf of the petitioner urged that the revision petition was not maintainable and that the Tribunal had no power or competence to make any order in the revision petition or to issue any direction to the Regional Transport Authority.

2. This submission made by Mr. Shetty before us is, in our opinion, unanswerable and has to be upheld. The Regional Transport Authority in this case, we have been informed by Mr. Government pleader made the recommendation to the State Transport Authority since such recommendation was necessary under the administrative scheme relating to the grant of Inter-State Permits. However that may be it is clear that the only authority which can grant an Inter-State Permit and which has the jurisdiction to grant it is as provided by Section 63 of the Motor Vehicles Act the concerned Regional Transport Authority subject of course to the condition that the permit granted by the Regional Transport Authority shall have no validity outside the State unless in the case of an Inter-State permit that permit is also counter-signed by the concerned Transport Authority in the other State. That being so, the only authority which can grant the permit in this case to the petitioner under which he could operate in the State of Bombay was the Bijapur Regional Transport Authority and if it granted that permit to the petitioner, that permit has to be counter-signed in order to have validity, by the concerned Transport Authority in the State of Bombay. But since the petitioner was already holding a permit between Bijapur and the State Border the application by the petitioner in effect was one for variation of a condition of his already existing permit so as to extend the route from the border of the Mysore State till the City of Bombay.

3. Now it is clear from the provisions of Section 57(8) of the Motor Vehicles Act that such variation of the condition of the permit is possible only by the adoption of the procedure prescribed for the disposal of an application for a permit which means that the application presented by the petitioner as well as those presented by the other 99 persons had to be published in the first instance u/s 57 (3) of the Motor Vehicles Act. In that view of the matter the recommendation made by the Regional Transport Authority to the State Transport Authority although such recommendation was, according to the administrative procedure which was being followed by the Regional and State Transport Authorities,

necessary, was not an "order" made by the Regional Transport Authority under the Motor Vehicles Act but was purely an administrative act in respect of which no revision petition could have been preferred u/s 64-A of the Act to the State Transport Appellate Tribunal. Mr. Shetty is therefore quite right in contending before us that the revision petition presented by respondent 1 was an incompetent revision petition on which the Tribunal could have made no order. ,

4. That being so, the order made by the State Transport Appellate Tribunal issuing a direction to the Regional Transport Authority being one which it had no competence to issue has to be and is accordingly quashed. But the fact that we say so does not mean that we have come to the conclusion that the Regional Transport Authority can grant the variation of the condition in the petitioner's permit without the publication of his application along with the others u/s 57 (3) of the Act. Since the application presented by the petitioner was as already pointed out, one for the variation of a condition of his own permit and since that application as enjoined by Section 57 (8) can be disposed of only by the adoption of the procedure prescribed for the disposal of an application for a permit, its publication u/s 57 (3) was inevitable. The Regional Transport Authority of Bijapur, it is clear is the authority which u/s 57(8) can. disposed of the application of the petitioner along with the other applications presented in that regard under Sub-section 8 of Section 57 of the Motor Vehicles Act and if it accedes to the request of the petitioner or of any other applicant and extends the route contained in that permit of that person by permitting him to proceed from the border of this State to the City of Bombay, that part of the permit which refers to the extended route will have validity only if the counter-signature of the concerned Transport Authority in the State of Bombay is obtained in respect of it. That is the clear meaning of Section 63 of the Motor Vehicles Act.

We are not prepared to accede to the argument advanced by Mr. Shetty that anything contained in the proviso to Section. 63(3) makes the publication of the application of the petitioner u/s 57(3) unnecessary. Sub-section 3 of Section 63 reads:

"63(3): The provisions of this Chapter relating to the grant, revocation and suspension of permits shall apply to if he grant, revocation and suspension of counter-signatures of permits :

Provided that it shall not be necessary to follow the procedure laid down in Section 57 for the grant of counter-signatures of permits, where the permits granted in any one State are required to be countersigned by the State Transport Authority of another State or by the Regional Transport Authority concerned as a result of any agreement arrived at between the States."

This proviso it is clear has application only to the procedure to be followed by the counter-signing authority and not by the authority which grants the permit which requires the counter-signature of another authority of another State. It may be that if the petitioner is able to obtain a variation of the condition of his own

permit, the counter-signature in respect of the extended route by the concerned authority of the State of Bombay becomes unnecessary under the proviso to Section 63(3) of the Motor Vehicles Act. To say so is not the same thing as saying that the Bijapur Regional Transport Authority can dispense with the procedure prescribed by Section 57(8) which requires publication of the application presented by the petitioner u/s 57(3) of the Act.

5. Although this writ petition is allowed and the order made by the State Transport Appellate Tribunal is quashed, it is clear that the instruction given by the State Transport Appellate Tribunal correctly indicates the procedure to be followed by the Regional Transport Authority and it would be for the Regional Transport Authority now to dispose of the applications before it on their merits and according to law by the adoption, of the procedure applicable to them. But how the Regional Transport Authority should now proceed with the matter is not a question on which we should say anything further in this writ petition. In the circumstances there will be no order as to costs.

6. Let a copy of this order be sent to the Regional Transport Authority, Bijapur, forthwith.