

(1972) 04 AHC CK 0024
In the Allahabad High Court
Case No : Civil Misc. Writ No. 4743 of 1971

Smt. P.D. Jaiswal and Others

APPELLANT

Vs

The Regional Transport Authority, Allahabad and Another

RESPONDENT

Date of Decision : 07-04-1972

Acts Referred:

Motor Vehicles Act, 1939 — Section 2(24), 2(28A), 48

Citation : AIR 1973 All 96

Hon'ble Judges : C.S.P. Singh, J

Bench : Single Bench

Advocate : L.P. Naithani, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

C.S.P. Singh, J.—The petitioners applied for the grant of a permit on the Allahabad- Udainbuzurg via Karari-Manjhanpur-Sirathu route. A portion of this route between Makhaukapul and Beni Ramka Purwa is a nationalised route. The petitioners allege that they had filed a sketch map of the route along with their application for permit, but this has been denied in the counter-affidavit. Be that as it may a permit was granted to the petitioners by a resolution of the Regional Transport Authority (vide resolution No. 8 dated 20-9-1969 and 7-10-1969). The permit granted to the petitioner mentioned the route as Allahabad-Udainbuzurg via Karari-Manjhanpur-Sirathu with a corridor restriction on a notified portion between Makhaukapul and Beniram Ka Purwa. The petitioners started plying on this route. Starting from the city of Allahabad, they passed from the Manori crossing, which is on a notified route, and thereafter took a route which linked up Manderi crossing with Bhagwatpur. Thereafter they passed through Makhaukapul, Beniram Ka Purwa, and then reached Udainbuzurg. The respondents, however, insisted that the petitioners should not pass through Mandaori crossing, but take an alternative route between Allahabad City and Makhaukapul, which passes through Rajruppur, Jhalva and Bhagwatpur. The driver of the petitioner who was plying the stage carriage was prosecuted under Sections 42/123 of the Motor

Vehicles Act for coming upto Manderi crossing. He was, however, acquitted by the order of the Civil and Sessions Judge, Allahabad in Criminal Appeal No. 378 of 1970, on the finding that there had been no contravention of the conditions of the permit, but in spite of this acquittal the respondents continued interfering with the petitioners" plying upto Manderi crossing and as a result, the petitioners have filed the present Writ petition.

2. Counsel for the petitioners has contended that the permit of the petitioners being for the Allahabad-Udainbuzurg route, the petitioners were entitled to start from Allahabad and reach Udainbuzurg via the public highway which passes Manderi crossing, and the respondents had no jurisdiction to interfere with the petitioners" plying their buses upto via Manderi crossing. In this context, it is further urged that the alternative route suggested by the respondents is not a public place, or a public road or a public highway inasmuch as a portion of this route is the property of the Defence Department, and the Defence Personnel prevent the buses of the petitioners plying on that portion of the road. It is next contended that inasmuch as the territorial limits of the Allahabad Corporation extends to a place one furlong short of Manderi crossing, the petitioners are under the permit entitled to begin their journey at any place within the precincts of Allahabad Corporation and as after reaching that place the only route by which they can reach Udainbuzurg from that place, Would be by crossing Manderi, subject of course to corridor restriction, the respondents cannot have any grievance in case the petitioners" buses ply by Manderi crossing route, and thereafter take a diversion route upto Bhagwatpur. Counsel for the respondents however, contends that the permit of the petitioners was for the route beginning from Allahabad City and passing through Rajruppur, Jhalva, Bhagwatpur (as shown in Annexure "B" to the counter-affidavit). It has also been contended that the mere fact that a portion of this route belonged to the Defence Department, did not make that route a private route, and took it out of the category of a public place or public road or a public highway, and further inasmuch at no interference was being caused by the Defence Department in the plying of the buses of the petitioners, the petitioners, were not entitled to pass through Manderi crossing. In respect of the second contention raised by the petitioners, it is urged that the permit of the petitioners was one which entitled them to start the journey from Allahabad City proper, and did not extend to the suburbs of Allahabad and as such the petitioners could not begin their journey from the outer limits of Allahabad Corporation.

3. In order to decide this controversy, it is necessary to determine as to whether permit of the petitioners entitled them to ply up to Manderi crossing and thereafter to proceed to Udainbuzurg. The permit has been granted in accordance with the provisions of the Motor Vehicles Act, which has as one of its objects to regulate and control all vehicles plying in public places. "Public place" has been defined in Section 2 (24) of the Motor Vehicles Act as a road, street, way or other place, to which the public have a right of access. Section 2 (28-A) defines a route as a line of travel on a specified highway, which may be traversed

by a motor vehicle between one terminus and another. It is thus obvious that the permits which have been taken out are in respect of a road, street, or other places to which the public has a right of access. The permit granted to the petitioners must be interpreted in the context of the Act, and as such must be interpreted so as to relate to a road on which the public have a right of access. It has not been asserted in the counter-affidavit that the portion of the alternative route suggested by the respondents is a public place, in the sense that the public at large have a right of access over that route. The mere assertion in the counter-affidavit that the Defence Department does not prevent the plying of buses on that route, would not convert the road to one in which the public can claim a right of access. That being so, the permit granted to the petitioners must be interpreted as one which entitled them to ply on public road connected with the Allahabad and Udainbuzurg. It is not disputed that there are only two roads for reaching Udainbuzurg from Allahabad, one by passing through Manderi crossing and the other by taking an alternative route suggested by the respondents. As has been seen, the entire length of the alternative route is not a public road or a public highway. As such in the context, the permit must be taken to have been granted for plying from Allahabad via Manderi crossing to Udainbuzurg. The respondents are not entitled to interfere with the petitioners' plying their buses via Manderi crossing, inasmuch as they are entitled to do so under the terms of the permit granted to them.

4. The other contention raised by the petitioners also appears to have force. The permit having set forth the two terminus of the road, one being Allahabad and the other Udainbuzurg, the petitioners are entitled under the permit to start their journey from any place within the precincts of Allahabad, subject of course to corridor restriction on notified routes within the Allahabad City. As such the petitioners can start their journey at a place short of one furlong of Manderi crossing. Inasmuch as after this, the only route available to the petitioners would be viz. Manderi crossing, the petitioners are entitled, in the circumstances to pass their buses via Manderi crossing. The action of the respondents in interfering with the petitioners' plying their buses via Manderi crossing seems to be unjustified.

5. The petition is accordingly allowed. The respondents are restrained from interfering with the petitioners' plying their buses via Manderi crossing so as to reach Udainbuzurg. The petitioners are entitled to their costs.