

(2004) 06 KAR CK 0064
In the Karnataka High Court
Case No : Writ Petition No. 21754 of 2004

Smt. Rathnakala

APPELLANT

Vs

The Secretary, Regional Transport Authority

RESPONDENT

Date of Decision : 15-06-2004

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka Motor Vehicles Rules, 1989 — Rule 65

Citation : AIR 2005 Kar 24 : (2004) ILR (Kar) 4551 : (2004) 3 KCCR 1883

Hon'ble Judges : N. Kumar, J

Bench : Single Bench

Advocate : B.R. Sundararaja Gupta, for the Appellant; B. Phalakshaiah, High Court Government Pleader, for the Respondent

Judgement

N. Kumar, J.—Learned Government Advocate is directed to take notice for the respondent,

2. By consent of parties, the matter is taken up for final disposal and disposed of by this order.

3. The petitioner filed an application for grant of Stage Carriage Permit on the route Jellipallya to Kollegala, Kollegala to Gondapura and Kollegala to Cowdalli. The said application was considered by the Regional Transport Authority and by an order dated 25-11-1996 granted the Stage Carriage Permit. Timings were assigned by the respondent-Secretary on 17-4-1997. As the petitioner did not possess the vehicle on the day permit was granted and within 30 days from the date of permit also she did not possess the vehicle, she made an application to the authority for extension of time. On her request, the time was extended upto 31-10-1997 for production of the documents showing that she is a registered owner of the vehicle. The petitioner could not acquire the vehicle within that time. Therefore, she filed one more application for further extension of time. The said request was rejected by the respondent by his order dated 13-11-1997 and permit granted earlier was cancelled as per Annexure-A. Aggrieved by the said

order, the petitioner preferred an appeal before the Appellate Tribunal. In appeal, the petitioner submitted that if time is granted upto 16-2-1998, she would produce the documents of the vehicle and would obtain the permit. Acting on the said submission, the order passed by the respondent was set aside, the order revoking the permit was set aside and the time was granted upto 16-2-1998 for production of documents of the vehicle. This order is passed on 6-1-1998 in Appeal No. 1 of 1998. The petitioner was unable to produce the documents of the vehicle before 16-2-1998. Therefore, on 20-2-2004, she filed an application for extension of time for a period of 15 days from 20-2-2004 for production of the documents of the vehicle. The said application came to be rejected by an order dated 20-5-2004. Aggrieved by the said order, the petitioner has preferred this writ petition.

4. Learned Counsel for the petitioner Sri B.R. Sundararaja Gupta, submits that under Rule 65 of the Karnataka Motor Vehicles Rules, 1989 (hereinafter referred to as the "Rule", for short), the authority has the power to extend such longer period as the Transport Authority may deem fit and therefore the impugned order passed by the Appellate Tribunal rejecting the request of the petitioner for extension of time on the ground that the Tribunal has no power to extend the time in view of the nature of order passed earlier is illegal and requires to be quashed. He also brought to my notice the several judgments of this Court, where extension of time sought for by the persons who are similar to that of the petitioner has been granted and therefore he submits that this Court in exercise of its power under Article 226 of the Constitution has the power to grant the extension of time sought for by the petitioner.

5. Per contra, the learned Government Advocate appearing for the respondent submits that the permit was granted in the year 1996. The extension of time sought for by the petitioner has been granted both by the respondent as well as by the Appellate Authority. Now nearly 8 years have lapsed from the date of grant. Under these circumstances, he submits that the question of extending the time to the petitioner would not arise.

6. In the light of the aforesaid facts and the rival contentions made, the point that arises for my consideration is, if a permit holder is unable to produce the certificates of registration of the vehicle within the time prescribed in law or by the authority, is he entitled to the extension of time? If so, to what extent?

7. In none of the judgments relied on by the petitioner, which were brought to my notice, the said question has been gone into. All that has been said in those judgments is that accepting the submissions of such permit holders and as they were not opposed by the other side, this Court has granted the time sought for. No law is laid down and the aforesaid question is not decided and even Rule 65 of the Rules has not been considered. Therefore, the aforesaid judgments relied on by the learned Counsel for the petitioner are of no assistance in deciding the question.

8. Learned Counsel for the petitioner contends that a reading of Rule 65 of the Rules makes it very clear that a person can apply for permit even without possessing a vehicle. After the permit is granted in law he is entitled to 30 days time to possess the vehicle and produce the same before the authority for entering the registration mark of the vehicle. If for any reason, he is unable to produce the certificates of the vehicle within 30 days, the authority has been conferred with a power to extend the time for production of the certificates of the vehicle and this power to extend is unlimited and what the original authority and the Appellate Authority can do, this Court also can certainly do. Therefore, he submits that there is no legal impediment for granting the extension of time sought for by the petitioner.

9. In order to appreciate this contention, we have to look at Rule 65 of the Rules, which reads as under.--

"Rule 65. Entry of registration mark in permit.-- (1) Where the registration mark of the vehicle is to, be entered in the permit and the applicant is not on the date of application, the registered owner of the vehicle, then the applicant shall, within one month of the sanction of the application by the Transport Authority, or such longer period as such Transport Authority, may specify, produce before that authority the certificate of registration of the vehicle registered in his name in order that particulars of the registration mark may be entered in the permit.

(2) No permit shall be issued until the registration mark of the vehicle to which it relates has, if the form or permit so requires, been entered therein and in the event of any applicant failing to produce the certificate of registration within the prescribed period the Transport Authority may withdraw its sanction of the application".

10. Rule 63 of the Rules provides for filing of an application for grant of a permit in respect of transport the vehicle in the prescribed form, which has to be addressed to the Transport Authority and accompanied by the fees prescribed.

11. The aforesaid Rules 85 of the Rules provides for before issue of a permit and after a decision to grant permit is taken, the applicant has to produce the registration mark of the vehicle to be entered in the permit. If on the date of the application, the applicant is not a registered owner of the vehicle, then the applicant shall, within one month of the sanction of the application of the Transport Authority or such longer period as the Transport Authority may specify, produce before that authority the certificate of registration of the vehicle registered in his name in order that particulars of the registration mark to be entered in the permit. Only after entering of such registration mark of the vehicle to which the permit relates is entered therein, the Authority shall issue the permit. In the event of the applicant failing to produce the certificate of registration within the prescribed time, the authority may withdraw its sanction.

12. Therefore, the aforesaid provision provides for sanction of a permit to an applicant who does not possess a vehicle. If the authority is sanctioning the

permit to an applicant who does not own a vehicle, it shall give him 30 days time to produce the documents pertaining to the registration of the vehicle. In a given case, the Rule empowers the authority to grant such longer period and the said longer period shall be specified in the order of sanction. In the event of the applicant failing to produce the certificate of registration within the prescribed period, the authority may withdraw its sanction of the permit. Thus, the rule provides for specifying a period longer than 30 days which is prescribed in the rules by the authority while according the sanction. There is no provision for extending the time which is specified in such order of sanction. Assuming that the authorities do have the inherent power to extend the period, that extended period cannot be more than the period which is specified.

13. In the instant case, the sanctioning of the permit was on 25-11-1996. 30 days is the, time specified in the said order of sanction calling upon the petitioner to produce the vehicle. The petitioner did not seek for a longer period before the order of sanction. However, when she could not produce the certificate of registration within 30 days prescribed, she made an application for grant of extension of time. The said application was allowed and the time was extended upto 31-10-1997. It is only when she made a further request for extension, the respondent rejected the said request and also withdrew the sanction granted earlier by an order dated 13-11-1997. The said order was challenged before the Appellate Authority. Before the Appellate Authority it was contended that if the time is granted upto 16-2-1998 the petitioner would produce the documents of the vehicle. Without going into the legality of the order passed by the respondent, the Appellate Authority set aside the order revoking the sanction and extended the time for production of the documents upto 16-2-1998. Admittedly, before 16-2-1998 the documents were not produced. For nearly 6 years the petitioner did not move her little finger and only on 20-2-2004 an application came to be filed by the petitioner in a disposed of appeal seeking for extension of time. Rightly the said application is rejected by the Appellate Tribunal. When the statute prescribes 30 days as the time within which the applicant does not possess the vehicle has to produce the documents of the vehicle after sanction of permit to get a permit and in a given case the authority has been vested with the power to prescribe a longer period than 30 days and in the absence of specifying any prescribed time, the question of extending the time at the instance of the applicant for producing the documents would not arise. At any rate, time to be extended can never be more than the original period. In a case like this where even after 8 years if the petitioner is unable to acquire the vehicle, the question of granting any extension of time would not arise.

14. Seen from any angle, I do not find any merit in this writ petition. Accordingly, it is rejected.