
(2003) 09 AHC CK 0207
In the Allahabad High Court
Case No : Writ Petition No. 4677 (M/B) of 2003

Smt. Urmila Trivedi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 16-09-2003

Acts Referred:

Motor Vehicles Act, 1988 — Section 68(3)

Citation : (2004) 2 AWC 1009

Hon'ble Judges : P.K. Chatterji, J; Jagdish Bhalla, J

Bench : Division Bench

Advocate : Pushpa Saxena and Ashish Saxena, for the Appellant; C.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Jagdish Bhalla and P.K. Chatterji, JJ.—By the order dated 16th September, 2003, we have dismissed the writ petition with the observation that the reasons will be recorded later on. Now, we proceed to record the reasons.

2. Petitioner in this writ petition has inter alia prayed for quashing the notification dated 5.7.2003 issued by the State Government so far as it relates to creation of new route, i.e., Fatehpur-Patti Shah via Hussainganj-Mawai-Chhiblaha-Aara Machine-Narauli.

3. Learned counsel for the petitioner has contended that in view of Sub-clauses (3) and (4) of Section 68 of the Motor Vehicles Act, the State Government is not competent to create route for plying of vehicles on the principles and formula laid down by the State Government. As a matter of fact, under the aforesaid provisions, the State Transport Authority is empowered to formulate new routes and in no manner this power vests in the State Government.

4. Inviting our attention to the provisions of Sections 67 and 68 of the Motor Vehicles Act, learned counsel submitted that the power of the State Government is to issue directions to the State Transport Authority and Regional Transport

Authority for the betterment and regulation of motor transport.

5. Under the provisions of Section 68 of the Act, creation of the aforesaid two authorities, namely, State Transport Authority and Regional Transport Authority is provided. According to learned counsel, Section 68(3)(ca) provides for formulation of routes by the Government for plying stage carriages and the word "Government" occurring in this section means State Transport Authority and, therefore, it is the State Transport Authority which is competent to formulate and create new routes.

6. In the above backdrop, it has been argued that the impugned notification issued by the State Government is without jurisdiction and is liable to be quashed. In support of his contention, learned counsel has relied upon a decision in *Mithlesh Rani Vs. The State Transport Appellate Tribunal and Others*, , and contended that in this case the learned single Judge has held that after insertion of Clause (ca) in Sub-section (3) of Section 68 by Motor Vehicles Amendment Act, 1994, the power to create route for plying of stage carriage cannot be exercised by the Regional Transport Authority ; such has to be exercised by the State Transport Authority only and neither the State Government nor the Regional Transport Authority is competent to create new routes.

7. We have heard learned counsel for the parties and have also gone through the judgment relied upon by the learned counsel for the petitioner.

8. A perusal of the aforesaid case, indicates that the learned single Judge has simply held in paragraph 15 as under :

"Therefore, power of creation under Sub-clause (ca) too in absence of express words, cannot be attributed to the powers and functions of the R.T.A. or of the State Government. In absence of a word in that sub-clause which may suggest something else, the only possible conclusion which can fairly be drawn is that the S.T.A. has been conferred with the power to create routes for plying of stage carriage throughout the State on the principles which may be laid down by the State Government."

9. It is trite that if a word has not been defined in any Act then the definition given in the General Clauses Act will be read and no other conclusion other than given in General Clauses Act can be arrived at. From the perusal of the provisions of Motor Vehicles Act, we do not find that the word "Government" occurring in Sub-clause (ca) of Sub-section (3) of Section 68 means State Transport Authority. In other words "Government" will include State Transport Authority.

10. The elementary principle of interpreting or construing a statute is to gather the mens or sententia legis of the Legislature and where, the language is clear, the intention of the Legislature is to be gathered from the language used. What is to be borne in mind is as to what has been said in the statute as also what has not been said.

11. Word "Government" is not defined anywhere in the Constitution. However, it denotes an established authority entitled and able to administer the public affairs of the country. We may add that the Indian Statutes are, therefore, framed or enacted in a fashion that whenever the word "Government" is used without any distinction or adjective prefixed to it, the word includes the Central as well as the State Government. The true meaning of a provision of law or word has to be determined on the basis of what it provides by its clear language and with due regard to the scheme of the law as a whole but not merely by the place it finds. Further, a literal meaning should be given to the language used by the Legislature, unless the language is ambiguous or its literal sense give rise to an anomaly,

12. In Section 3 of the General Clauses Act, words generally used in various Acts have been defined. In Section 3(23) of the General Clauses Act word "Government" or "the Government" shall include both the Central Government and any State Government.

13. For the reasons aforementioned, we are unable to accept the contention of learned counsel for the petitioner that the word "Government" occurring in Sub-clause (ca) of Sub-section (3) of Section 68 means "State Transport Authority". The rule is when any word is not defined in a particular Act ; regard must be had to the context and to the popular sense, which means the sense people conversant with the subject matter. In simple way, the words must be read in their ordinary sense and the words susceptible of two interpretations have to be construed in a sense more harmonious with the intention of the Legislature.

14. In view of the above, we are of the considered opinion that the law laid down by the learned single Judge is not a good law in Smt. Mithlesh Rani (supra), and it is incorrect to say that the Government is not competent to create any route u/s 68(3)(ca) of the Motor Vehicles Act,

15. Accordingly, no interference is warranted under Article 226 of the Constitution.