

(2011) 12 KAR CK 0086

In the Karnataka High Court

Case No : Writ Petition No's. 42893 To 42897 of 2011 (MV)

Sri B.G. Mruthunjaya

APPELLANT

Vs

The Regional Transport Authority and Others

RESPONDENT

Date of Decision : 08-12-2011

Acts Referred:

Citation : (2011) 12 KAR CK 0086

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : R. Lokesh, for the Appellant; T.K. Vedamurthy, HCGP for R1, Sri H.B. Nagaraj, for R2 Sri Anand Shetty and Rajashekar for R3, Sri C.V. Kumar, for R4 and Sri S.V. Krishnaswamy, for R5 and Sri B. Phalakshaiah, for R6, for the Respondent

Judgement

S. Abdul Nazeer

1. The petitioner had filed an application dated 19.7.2001 for grant of a fresh stage carriage permit from Banavikal to Ramanagar. However, he filed a modified application dated 3.11.2003 for grant of fresh stage carriage permit. On 6.11.2003, the Regional Transport Authority ("RTA" for short), Chitradurga, rejected the said application without considering the modified application. The petitioner filed an appeal before the Karnataka State Transport Appellate Tribunal ("Tribunal" for short) challenging the said resolution of the RTA in appeal No.241/2004. The Tribunal by its order at Annexure "B" dated 10.11.2004 set aside the said resolution and remanded, the matter to the RTA for consideration of the application afresh in accordance with law. The RTA by resolution dated 6.8.2009 rejected the said application. The petitioner challenged the said resolution by filing an appeal in No.462/2009 before the Tribunal, Bangalore. The Tribunal by its order at Annexure "C" dated 25.2.2010 allowed the appeal and set aside the resolution of the RTA dated 6.8.2009 and remanded the matter to the RTA. Chitradurga, to dispose of afresh in accordance with law after conducting route survey of the bye pass routes and ascertaining as to whether

the bye pass routes are notified routes or non-notified routes within sixty days from the date of receipt of the said order.

2. The RTA, Chitradurga, has once again passed a resolution at Annexure "D" dated 27.3.2010 resolving to grant permit in favour of the petitioner. The Karnataka State Road Transport Corporation ("KSRTC" for short), and the private operators i.e. respondent Nos.2 to 5 challenged the said resolution by filing R.P.Nos.648/2010, 660/2010, 792/2010, 795/2010 and 814/2010. The Tribunal by its order dated 1.12.2010 and 9.2.2011 (Annexures "E" and "F" respectively) dismissed the revision petitions. The KSRTC and some of the private operators filed writ petitions before this Court challenging the said order in Writ Petition No.8832/2011 and other connected matters. This Court by order dated 16.3.2011 remanded the matter to the Tribunal for fresh consideration in accordance with law observing that the Tribunal has not considered several overlappings in the entire area. After remand, the Tribunal has secured route survey report dated 7.7.2011, copy of which has been produced along with the statement of objections of respondent No.3 and marked at Annexure "R2". The contention of the petitioner is that he has filed objections to the said route survey report as per Annexure "H". The Tribunal has again allowed R.P.No.648/2010 and other connected matters by its order dated 10.11.2011 and remanded the matter to the RTA, Chitradurga District, for fresh disposal after taking into consideration the joint route survey referred to above. In these cases, the petitioner has called in question the validity of the said order of the Tribunal.

3. The contention of the learned Counsel for the petitioner is that the Tribunal was not justified in remanding the matter with a direction to reconsider the matter in the light of the joint route survey report. It is argued that petitioner has not participated while conducting the joint route survey on 7.11.2011. He was not agreeable for the joint route survey, as there were several discrepancies and that he has filed objections to the joint route survey as per Annexure "H".

4. On the other hand, learned Advocates appearing for the respondents have sought to justify the impugned order.

5. It is clear from the materials on record that petitioner had filed the application for grant of fresh stage carriage permit on 19.7.2001 along with timings and the route map. However, he had filed the modified application on 3.11.2003. Though the petitioner contends that the said application was accompanied with a route map, the records produced by the learned HCGP would disclose that he had not filed a route map. Having regard to the facts and circumstances of the case, it is just and proper to conduct a joint route survey in terms of the modified application dated 3.11.2003. The said joint route survey shall be conducted after notice to all the contesting parties in these writ petitions within a period of two months from today. Learned Counsel appearing for the Corporation assures the Court that while conducting the joint route survey, they will co-operate with the authority without taking any time. The RTA is directed to consider the application of the petitioner dated 3.11.2003 in accordance with law after taking into

account the joint route survey conducted in terms of this order and pass appropriate resolution within a period of two months from the date of conducting joint route survey. Writ petitions are accordingly disposed of. No costs.