
(1999) 03 AP CK 0019
In the Andhra Pradesh High Court
Case No : WA No. 400 of 1999

Sri Santhi Ashramam, Sankanaram	APPELLANT
Vs	
State Transport Appellate Tribunal, A.P. and Others	RESPONDENT

Date of Decision : 23-03-1999

Acts Referred:

Andhra Pradesh State Transport Appellate Tribunal Rules, 1989 — Rule 15
Motor Vehicles Act, 1988 — Section 2(28)

Citation : (1999) 4 ALD 56 : (1999) 2 ALT 685

Hon'ble Judges : M.S. Liberhan, C.J.; A.S. Bhate, J

Bench : Division Bench

Advocate : Mrs. M. Vinobha Devi, for the Appellant; Mr. K. Harnath for APSRTC, for the Respondent

Judgement

M.S. Liberhan, C.J.—Appellant's permit for route "Kakinada to Sarabavaram" was regularised on 22-12-1995. Respondents preferred a revision petition which was accepted and the grant of the permit was set aside. The appellant impugned the revisional order dated 4-12-1998 inter alia contending that setting aside the grant of permit is improper, unjust, of the schemes prior to 1992 to supersede it, grant of stage carriage permit in respect of routes overlapping partially in the absence of the total prohibition under the scheme is permissible and the condition exempting two services to the appellant's ashram was approved by G.O.Ms. No.342, Tr.R&B, dated 12-8-1985, O.O.Ms. No.215, Tr. R&B, dated 7-4-1976 does not prohibit the grant of permit, the latest schemes modified the earlier schemes granting exemption to public charitable institutions plying stage carriage permits on the route Kakinada to Siant Ashram, the pendency of the petition before the Government seeking modification of the scheme coming in the way is pending consideration, consequently setting aside the grant in favour of the appellant is erroneous.

2. The learned single Judge on reappraisal of the various schemes confirmed the finding of fact by the Tribunal that there is a total prohibition for granting of a

permit overlapping under the scheme while granting an exemption to the vehicles of charitable institution. The learned single Judge further held that the route is a monopoly of Andhra Pradesh State Road Transport Corporation and granting of permit to the appellant is contrary to the rules of the route permit. Finding that there is no error in the judgment of the Tribunal the learned single Judge declined to interfere. It was further observed while repelling the argument of the learned Counsel for the appellant that various schemes are put before the appellate authority in violation of the procedural requirements for producing additional evidence under Rule 15 is of no consequence, inasmuch as the record was before the revisional authority, all schemes were before the revisional authority, though there is no procedural violation alternatively it is of no consequence.

3. There is no gain saying that in view of the law laid down in Adarsh Travels Bus Service and Another Vs. State of U.P. and Others, , to the effect that once scheme was published for in an area, no one other than the State can ply on that route as is deducible from a reading of Sections 68-C, 68-0(3) and 68-FF read with Section 2(28-A) of the Motor Vehicles Act. It was further observed that neither it was averred nor proved that the appellant was a charitable institution. Pendency of the representation for exemption was taken note of by the learned single Judge.

4. The learned Counsel for the appellant vehemently contended that Rule 15 was not complied with and various schemes were taken note of by the appellate authority without having them produced by the respondents in conformity with Rule 15 of the State Transport Appellate Tribunal Rules and marking the alleged schemes as exhibits. Rule 15 of the Andhra Pradesh State Transport Appellate Tribunal Rules, 1989 (hereinafter referred to as "Rules") envisages the procedure for production of the additional evidence before the appellate authority. There is no gain saying that the authority viz., the Transport Appellate Tribunal in exercise of the revisional power, if comes to a conclusion that the State Transport Authority or the Regional Transport Authority has passed an order and it suffers from being improper or illegal, can pass an appropriate order. The Tribunal on re-appraisal of the record came to the conclusion with respect to the improper passing of the order by the authority granting the permit to the appellant to be overlapping by 50 Kms. While the scheme completely prohibits the grant of permit for mofussil route in overlapping.

5. We find no error in the finding of the learned single Judge that the scheme of 1992 does not supersede or set at naught the earlier schemes which are independent of 1992 scheme. The earlier schemes categorically prohibits the grant of an overlapping mofussil route permit. There is neither any averment that the appellant is a charitable institution nor there is any evidence for that. Thus, the impugned order of the learned single Judge or the revisional authority does not suffer from any infirmity.

6. We have also gone through the various schemes with the assistance of the

Counsel and we find no ground to take any other view other than the one taken by the learned single Judge or the Tribunal. Thus, we affirm the finding of the learned single Judge.

7. In our considered view, firstly Rule 15 applies for production of the additional evidence before the appellate authority with a limited jurisdiction. The revisional authority can come to the conclusion even in respect to the propriety of the order passed by the authority. Consequently the procedural provisions of the appeal would not apply to the revisional authority *mutatis mutandis*. The powers of the revisional authority are wider, as envisaged by the Act. Be that as it is, even violation of Rule 15 which is a procedural law, has not resulted in any substantial injustice in this case to the appellant. Consequently, mere irregularity in procedure would not render the judgment liable for interference in exercise of equitable writ jurisdiction which can be invoked to reach injustice and do the justice. In our considered view, we find no ground to interfere in the order of the learned single Judge. Consequently, the appeal is dismissed with no order as to costs.