

(2015) 04 KAR CK 0266

In the Karnataka High Court

Case No : Writ Appeal Nos. 236 and 469 to 732 of 2015 (T-MVT)

State of Karnataka and Others

APPELLANT

Vs

K.T. Rajashekar

RESPONDENT

Date of Decision : 01-04-2015

Acts Referred:

General Clauses Act, 1897 — Section 10

Citation : (2015) 2 AKR 831 : (2015) 3 KarLJ 353 : (2015) 3 KCCR 2710

Hon'ble Judges : Vineet Saran, J;S. Sujatha, J

Bench : Division Bench

Advocate : S.V. Girikumar, Additional Government Advocate, for the Appellant; Puttige R. Ramesh and Lakshmi S. Holla, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Vineet Saran, J.—The respondent is a Tourist Bus Operator having 265 buses plying in the State of Karnataka and other States as well. On the ground that his vehicles were time and again being seized by the appellants for alleged violation of the provisions of the Motor Vehicles Act, 1988 (for short, "the Act") and the Karnataka Motor Vehicles Rules, 1989 (for short, "the Rules") framed thereunder and after seizure, the vehicles were not being kept in terms of the Act and the Rules, the respondent filed Writ Petition Nos. 57887 to 58151 of 2014 K.T. Rajashekar Vs. State of Karnataka with the prayer for a direction to the respondents not to effect seizure of his vehicles except by following the procedure provided for. The learned Single Judge disposed of the writ petitions vide judgment dated 19-12-2014 with certain directions as to how the vehicles are to be kept after seizure. Aggrieved by the same, these writ appeals have been filed. We have heard Sri S.V. Girikumar, learned Additional Government Advocate appearing for the appellants as well as Sri Puttige R. Ramesh and Mrs. Lakshmi S. Holla, learned Counsel appearing for the respondent and perused the records.

2. It is contended by the learned Additional Government Advocate appearing for

the appellants that the seizure of the vehicles belonging to the respondent-writ petitioner and other transport operators has always been done by the State in accordance with the provisions of the Act, 1988 and the Rules framed thereunder by the Karnataka Government. It has also been contended that after seizure of the vehicle or vehicles, the procedure of detaining the vehicle, as prescribed under Rule 202-B, is being complied by the Department and as such, no direction, as has been issued by the learned Writ Court, was required.

3. Rule 202-B of the Rules of 1989 provides as under:

"202-B. Procedure of detaining a motor vehicle. --When a motor vehicle is detained by any officer referred to Rule 202-A, he shall take the following steps, namely.--

(i) arrangement shall be made for temporary safe custody of the motor vehicle in the nearest Police Station or at any appropriate place;

(ii) the fact of seizure and detention shall be informed without delay to the Secretary, Regional Transport Authority of the region and the Secretary, Regional Transport Authority of the region to which the motor vehicles belongs;

(iii) where prosecution of the driver or owner or both is necessary, charge sheets against them shall be filed before the concerned Magistrate within three days (computation of three days shall be in accordance with Section 10 of General Clauses Act, 1897) from the date of seizure and the motor vehicle shall be released by the Officer who detained it after the prosecution is completed under intimation to both the Secretaries of Regional Transport Authorities mentioned in clause (ii);

(iv) mahazor of the vehicles is to be carried out in writing of its condition, and parts which are easily removable, replaceable and temperable (viz., Television, DVD/VCD/MP-3 Play Radio, public address system and any other equipments) and a copy of its is to be delivered to the persons from whom it is seized, duly signed".

4. The learned Writ Court, after hearing the parties, has issued the following directions:

"6. In the case on hand, for future guidance, it is hereby directed that the respondent in the event of seizure of the vehicles for any violation of the terms and conditions of the Motor Vehicles Act, 1988 and the Karnataka Motor Vehicles Rules, 1989 such vehicles seized shall be kept in the safe custody of the Government or release the vehicle on getting the indemnity bound with surety and with same conditions pending disposal of the case registered against the owners and also indicating the violations made therein by the operator and which proceedings would be before the quasi-judicial authority or before the Court of law. The vehicles seized by the police and kept in the custody of the Transport Department without taking care of them and keeping in safe custody would also be detrimental to the operators or the owners. While exercising power/discretion,

it is also to be noted that for violation of any terms and conditions of the Motor Vehicles Rules, the vehicles which are seized if kept in the custody of the parallel operator, would affect the economy of the operator of the vehicle, till decision is taken by the authority in the Court proceedings, however, indicating the manner of violation by the operator or agent of the operators, charge sheeting for such violation and directing the operator to make good or to overcome any such mistake which would crept in. However, it is for authority concerned or the police to take legal course of action in accordance with law. Keeping the vehicle idle would cause substantial damage. For any gross violation of the rules if once the vehicle is seized such vehicle should be kept in safe custody either till the disposal of the matter or interim order is obtained through the Courts concerned/ authorities quasi-judicial authority/Tribunal. For the purpose of taking custody of the vehicle by the officer or by some other officer there shall be a compulsory inventory made and the vehicle be released, so that there shall be no monetary loss to the operator because of the improper maintenance or negligence on the part of the seizing authority. 7. An inventory should be prepared apart from filing charge-sheet for any violation. Thereafter the vehicle would be preserved in a proper condition and at the time of the delivery/returning the vehicle, the operator shall undertake to produce the vehicle as and when necessary and also execute a bond with surety. At the discretion of the authority if minor offences are committed vehicle would be released on spot, instead of keeping the vehicles at the risk of the Government to avoid inconvenience to the operator or the owner of the vehicle.

8. With the above observations, writ petitions are disposed of".

5. What we notice from the above is that the directions issued by the learned Writ Court are nothing but reiteration of the provisions of Rule 202-B of the Rules of 1989. Certain clarifications with regard to the same have been issued in the aforesaid directions by the learned Writ Court, which are in conformity with the directions given by the Apex Court in the case of Krishna Bus Service Pvt. Ltd. Vs. State of Haryana and Others, AIR 1985 SC 1651 : (1985) 2 SCALE 72 : (1985) 3 SCC 711 : (1985) 2 SCR 330 Supp and in the case of The Transport Commissioner, Andhra Pradesh, Hyderabad and Another Vs. S. Sardar ali, Bus Owner, Hyderabad and Others, (1984) 2 ACC 153 : AIR 1983 SC 1225 : (1983) 2 SCALE 206 : (1983) 4 SCC 245 : (1983) 3 SCR 729 .

6. Learned Additional Government Advocate appearing for the appellants could not point out any direction issued by the learned Writ Court, which is contrary to the Act of 1988 and the Rules of 1989, except that the learned Single Judge has directed that the vehicles which are seized be not kept in the custody of parallel operators. His contention is that Bangalore Metropolitan Transport Corporation (BMTC) and Karnataka State Road Transport Corporation (KSRTC) are instrumentalities of the State (as they are wholly Government Corporations) and thus, under clause (i) of 202-B of the Rules of 1989, even though they may be business competitors of the Tourist Bus Operators, yet after seizure, vehicles can

be given in the custody of either of the said two Corporations.

7. The said clause permits the seized vehicle to be kept in temporary safe custody only in the nearest Police Station or at any appropriate place. In our view, the appropriate place would be a place belonging to the Government and not a private body (which would include a private or a public Corporation). It is for the authority concerned to decide as to what would be the appropriate place of the Government, apart from the Police Station. In the facts of the present case, in our view, a direction given that the custody should not be given to a parallel operator, including the Corporations, cannot be said to be unjustified.

8. As already observed hereinabove, the other directions issued by the learned Single judge are only reiteration of what is provided in the relevant Rules and as such, in our view, the judgment and order passed by the Writ Court does not call for interference. Appeals are accordingly dismissed.