

(1976) 06 PAT CK 0003

In the Patna High Court

Case No : Civil Writ Jur. Case No. 1125 of 1975

Surajdeo Singh and Another

APPELLANT

Vs

The State Transport Appellate Tribunal and Others

RESPONDENT

Date of Decision : 25-06-1976

Acts Referred:

Bihar Motor Vehicles Rules, 1992 — Rule 55
Motor Vehicles Act, 1939 — Section 47(1), 48(3), 68

Citation : AIR 1977 Patna 7 : (1977) 25 BLJR 238

Hon'ble Judges : S. Sarwar Ali, J;B.S. Sinha, J

Bench : Division Bench

Advocate : Amla Kant Choudhary, Ram Priya Sharan Singh and Badri Narain Singh, for the Appellant; Md. Khaleel, (G.P. 3), Indu, J.C. to G.P. and Ashwini Kumar Sinha, S.C.C. Govt., for the Respondent

Final Decision : Dismissed

Judgement

Sarwar Ali, J.—In this application the petitioners pray for quashing of Annexure 1, the order passed by the East Bihar Regional Transport Authority on 9-6-1973, whereby the two petitioners have been directed to carry mail in the stage carriage which is being operated by the petitioners. They also pray for quashing of Annexure 2 the order of State Transport Appellate Tribunal passed in revision. By this order the Appellate Tribunal had dismissed on 2-1-1975 the revision application of the petitioners directed against Annexure 1.

2. The relevant facts giving rise, to this writ application may be compactly stated: The two petitioners have a permanent stage carriage permit on Purnea-Katihar-Manehari and Jogbani-Katihar-Manihari routes respectively. The Superintendent of Post Offices, Purnea, recommended the names of the petitioners for carrying the mail from Purnea and Katihar on their respective stage carriages. After giving notices to the petitioners and hearing them the Regional Transport Authority ordered petitioner No. 1 to carry mails from Purnea and petitioner No. 2 from Katihar, failing which it was stated that the permit

would be cancelled. Against this order the petitioners went in revision, which was dismissed. Hence this writ application challenging the orders aforesaid.

3. The contention of the petitioners is that u/s 47(a) of the Motor Vehicles Act it is the "interest of public generally" which has to be taken into account. The expression aforesaid refers only to the interest of travelling public and is not comprehensive enough to permit exercise of power for the interest of general public as distinguished from the travelling public. It was further contended that u/s 48(3)(xxi) a condition, in relation to grant of permit, could be imposed at the time of initial grant but not subsequently. Lastly, it was contended that Rule 55 (i) of the Bihar Motor Vehicles Rules is ultra vires of Section 68 of the Act.

4. Before dealing with the arguments it would be proper to refer to the relevant provisions. Section 47 of the Act specifies the matters which have to be taken into account in deciding whether permits should or should not be granted. The relevant portion of section, being 47(1)(a), is as follows:--

"(1) A Regional Transport Authority shall, in considering an application for stage carriage permit, have regard to the following matters, namely--

(a) the interests of the public generally;"

Section 48 empowers the Regional Transport Authorities to restrict the number of buses in specified area or on a specified route and to impose conditions on permits. Section 48(3) (xv) and (xxi) are as follows:--

"(3) The Regional Transport Authority, if it decides to grant a stage carriage permit, may grant the permit for a service of stage carriages of a specified description or for one or more particular stage carriages, and may subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions namely:--

XX XX XX (xv) that mails shall be carried on any of the vehicles authorised by the permit subject to such conditions (including conditions as to the time in which mails are to be carried and the charges which may be levied) as may be specified;

XX XX XX (xxi) that the Regional Transport Authority may, after giving notice of not less than one month:--

(a) vary the conditions of the permit;

(b) attach to the permit further conditions :

Provided that the conditions specified in pursuance of Clause (i) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometres, and any variation within such limits shall be made only after the Regional Transport Authority is satisfied that such variation will serve the public convenience and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof."

Rule 55 (i) may now be quoted which is as follows;--

"Carriage of Mails-- In respect of any permit granted for a particular stage carriage, a service of stage carriages, the Regional Transport Authority shall have power to impose a condition that the holder of the permit shall, if required, carry mails at such rates as may be fixed by the Regional Transport Authority in consultation with the Postal Authorities concerned."

5. I have already quoted Rule 55 (i). A plain reading of the Rule makes it clear that it was open to the Transport Authority to require the permit-holder to carry mail on the transport operated by him. What has been done by the Regional Transport Authority falls squarely within the ambit of the said rule. The action of the Transport Authority cannot, therefore, be said to be illegal or beyond the powers granted by the rules. It was because of this position that the learned counsel attacked the validity of the rule and contended that the rule itself was invalid being contrary to Section 47(1)(a) of the Act. In other words, the learned counsel says that such a rule could not be framed, as the rule was not in the interest of the public generally as contemplated in Section 47(1)(a) of the Act.

6. There are two answers to this argument. First the power to make rules is derived u/s 68. Under this section the State Government is empowered to make rules for the purpose of carrying into effect the provisions of Chapter IV. In framing the rules, therefore, the rule-making authority is not confined to the matters enumerated in Section 47. Even if Section 47(1)(a) was to be given the restricted meaning canvassed on behalf of the petitioners, the rules may be framed for carrying into effect other provisions of Chapter IV--One of those provisions is Section 48. Section 48(3)(xv) permits the laying down as one of the conditions of the permit that the mails shall be carried. To effectuate this purpose--a purpose contained in Chapter IV--it was perfectly legal to frame Rule 55 (i) aforesaid under the powers derived u/s 68 of the Act.

7. Secondly, as a matter of interpretation of Section 47 I am not prepared to accede to the extreme contention put forth on behalf of the petitioners. The expression "the interest of the public generally" may be capable of a very wide interpretation as was contended to in some of the cases. This expression cannot, in my view, be equated with the expression "public interest or public purposes". That would be giving it too wide a meaning. This is so because the expressions used in a statute take their colour and meaning from the context. Neither the purpose nor the scheme of the Act permits such a wide meaning to be given to the expression aforesaid. Nor I am prepared to take the extremely narrow view put forth on behalf of the petitioners that the expression must be confined to the interest of the travelling public. No doubt interest of the travelling public is an important consideration. But the expression "interest of public generally" cannot be confined to the interest of travelling public only. The expression at least includes, in my view, the interest of persons who are likely to visit the area in which the transport facilities are being provided for, and the persons residing in that area. The narrow interpretation, in my opinion, would amount to importing

unjustifiable restriction in the wide language used in this section, and putting fetters which are not there. If the intention of the Legislature was to confine Section 47(1)(a) to the interest of the travelling public only it could very well instead of saying "in the interest of public generally" have used such or similar expression as "in the interest of the travelling public". But the Legislature had not, in my view, deliberately used such restrictive language. It would not be right to narrow down the meaning of the general words used, to the extent canvassed on behalf of the petitioner, by judicial interpretation.

8. I may now notice the case relied upon by the learned counsel for the petitioners. In *Sri Rama Vilas Service, Limited Vs. The Road Traffic Board*, it was observed at page 407 "the expression interest of the public which is found in the Act relates to the interest of the travelling public for whose convenience and need stage carriages are provided." I do not read these observations to mean that the expression interest of the public is confined to interest of the travelling public. The observations made therein are, in my view obiter.

9. The next case relied upon by the learned counsel is the case of *Vypeen Transport Corporation (P) Ltd. and Others Vs. State Transport Appellate Tribunal, Trichur and Others*, . This also does not, in my view, try to lay down exhaustively the meaning of the expression now under consideration.

10. In *Onkarmal Mistri and Others Vs. Regional Transport Authority, Darjeeling and Others*, the question for consideration was whether preference could be given on the ground of the applicants being refugees, political sufferers or members of Scheduled Tribes or backward hillmen. It was held that the expression in the interest of public was not wide enough to import considerations of politics or philanthropy and the like which while highly commendable from other points of view had nothing to do with efficient running of such services. It was observed in that case:--

"In *Sri Rama Vilas Service, Limited Vs. The Road Traffic Board*, , Gentle, C.J. held that the words "interests of the public" which are found in the Act, relate to the interests of the travelling public for whose convenience and need stage carriages are provided. I respectfully agree with the learned Judge. The "interests of the public", as mentioned in the Act, cannot include matters which have nothing to do with the interest of the public which was going to use the Motor Vehicles in question, or such as are wholly unconnected with the user of the roads or the transport system which was under consideration of the R.T.A. in the given case. It seems to me quite obvious that in considering whether to grant permits or not in a particular route, the R.T.A. cannot be permitted to take into consideration matters which are totally unconnected with the particular subject-matter which is under consideration."

It would thus appear that even according to the view of Sinha, J. if the matter taken into consideration was in the interest of users of the road or the transport system it would be included in the expression "interest of public". Persons

residing in the locality are obviously the users of the road or the transport system. If something is done which is in their interest it would, according to the view of Sinha, J. be permissible being in the interest of public generally. Thus the observations aforesaid fortify the view that I have taken. It is obvious that providing a mail service to the people of the locality is in the interest of the users of the road or transport systems, namely those who belong to that particular locality. In my view, therefore, Onkarmal's case supports the view that I have taken.

11. In *Kishanchand Narsinghadas Bhattia v. Appellate Authority, Madhya Bharat Gwalior* AIR 1956 MP 231 what was observed was that the most important thing that the transport authorities were required to take into consideration was the interest of the travelling public. This observation also does not specifically deal with the question now under consideration nor does it envisage to lay down that no other consideration was relevant u/s 47(1)(a) of the Act.

12. Similarly, the observation of Malik C.J. in *Moti Lal and Others Vs. The Government of the State of Uttar Pradesh and Others*, o the following effect is not contrary to the view that I am taking.

"Under Section 47(1)(a) the Regional Transport Authority has to take into consideration "the interest of the public generally". As the Regional Transport Authority is mainly concerned with the interest of the travelling public, it must mean primarily the interest of the travelling public. The Regional Transport Authority has also to consider what are the other existing arrangements for the transport of passengers and how those services will be affected, the condition of the road, the amount of traffic on it, the operation by the applicant of other transport services, whether it is an application for a fresh permit or a renewal of an old permit, whether the applicant has been given any unremunerative route, and the benefit conferred by such service on the locality in question and such other matters."

Indeed the emphasis to the benefit conferred on the locality in the aforesaid observation is consistent with the view that I have taken.

13. I must now notice the decision by Rajagopalan, J. in *M.K. Padmanabhan Vs. The State of Madras and Another*, . In that case, the Regional Transport Authority enforcing the condition of permit prescribed under the relevant rule, directed the petitioner of that case to carry mails in return of a monthly subsidy. The order was under challenge before the High Court. It was held that such a condition could be validly imposed--a view which I am taking in this case.

14. The argument of the learned counsel for the petitioners that condition relating to carriage of mail could be imposed only at the time of grant of permit is adequately answered by Section 48(3)(xxi) which I have already quoted. This provision clearly authorises the Regional Transport Authority to vary the conditions of permit and attach to the permit further conditions. This is what has been done in the instant case. This is clearly permissible u/s 48(3)(xv) read with

Section 48(3)(xxi) and the rules.

15. For the reasons discussed above I do not think that the Regional Transport Authority or the Appellate Tribunal committed any error of law so as to require interference by this court. This application is accordingly dismissed, but in the circumstances without costs.

B.S. Sinha, J.

16. I agree.