
(1959) 02 AP CK 0008
In the Andhra Pradesh High Court
Case No : Writ Petition No. 709 of 1958

T. Narayana Reddy

APPELLANT

Vs

Secretary, Regional Transport Authority, Cuddapah and
Another

RESPONDENT

Date of Decision : 02-02-1959

Acts Referred:

Constitution of India, 1950 — Article 254
Motor Vehicles Act, 1939 — Section 48, 48(3), 48A

Citation : AIR 1959 AP 476 : (2009) 1 ALT 471

Hon'ble Judges : Satyanarayana Raju, J

Bench : Single Bench

Advocate : P. Babul Reddy and E. Ella Reddy, for the Appellant; P. Ramachandra Reddy, 3rd Government Pleader and K. Amareswari, for the Respondent

Final Decision : Dismissed

Judgement

Satyanarayana Raju, J.—This is a petition, for the issue of a writ of prohibition, restraining the Secretary, Regional Transport Authority, Guddapah, from proceeding to implement his notification, dated 10-6-1958.

2. The petitioner is a transport operator having three stage carriage permits, two of them on the route, Rajupalem to Simhadripuram via Proddatur; Closely allied with this route is another route from Proddatur to Pulivendla. On this route there are altogether four buses running on a monthly rotation Basis.

3. On 8-6-1957, the Secretary, Regional Transport Authority; published a notice under S. 47(1) of the Motor Vehicles Act, proposing to vary the existing route Proddatur to Pulivendla as Rajupalem to Pulivendla via Proddatur. He invited representations from all those who were interested in the proposal. On 21-6-1957, the petitioner addressed a communication to the Regional Transport Officer wherein he stated as follows :

"The proposal for varying the existing routs Proddatur to Simhadripuram as

Rajupalem to Simhadripalem, has already been approved by the Chairman, S. T. A., Hyderabad, on which the Secretary, R. T. B. has also called for applications. I have applied for the variation of route in respect of my two buses, which are pending consideration by the R. T. O. The distance between Rajupalem and Proddatur is 8 miles. The road is considerably narrow that it may not be possible to cross or overtake one bus by another except at some distant places. Traffic on the portion of the route has not yet been assessed and in the absence of such particulars, granting further extension on the sector would result in unhealthy competition and most uneconomic,"

On the above grounds, he requested the Regional Transport officer to drop the proposal,

4. The matter was placed before the Regional Transport Authority, Guddapah, at its meeting held on 21-1-1958. At this meeting, the petitioner was present and reiterated his objections. Eventually the proposal was approved by the Regional Transport Authority. It was when transmitted to the State Transport Authority for its approval. The petitioner sent a petition to the Regional Transport Officer, Guddapah, for being forwarded to the State Transport Authority, mentioning his grounds of objection for the variation of the existing route.

By the proceedings of the Chairman, State Transport Authority, dated 23-4-1958, the proposal of the Regional Transport Officer, Guddapah, for the variation of the route in respect of two buses was approved. Thereafter, the Secretary of the Regional Transport Authority published a notification u/s 57(2) of the Motor Vehicles Act on 10-6-1958, calling for applications on or before 30-6-1958 for the grant of the variation of the route in respect of two buses. On 3-7-1958, the petitioner filed this Writ Petition to restrain the Secretary Regional Transport Authority, Guddapah (1st respondent) from implementing the notification mentioned above.

5. The contentions raised by the petitioner are (1) that the 1st respondent has no jurisdiction to vary the route, as under the provisions of the Act, it is only the State Transport Authority that is competent to vary the conditions of the permit u/s 48A; (2) that the delegation made by the Government in G. O. M. S. No. 527 dated 14-2-1953, authorising the Regional Transport Officer to vary the conditions of the permit, is ultra vires; (3) that the conditions of the permit are those that are found in the schedule attached to the permit and that the route is not a condition of the permit that a variation of the route does not require the variation of any condition and that therefore no authority constituted under the Act has jurisdiction to vary the route.

6. With regard to the second of the contentions, a Full Bench of this Court has held in *B. Veeraswamy and Others Vs. State of Andhra Pradesh and Others*, that the authority granted by the State Government to the Regional Transport Officers to exercise the powers and discharge the functions of the State Transport Authority under S. 48-A is intra vires.

7. Mr. Babulu Reddy has relied upon a decision of a Divisional Bench of the Madras High Court in *M. Kali Mudaliar Vs. A. Vedachala Mudaliar and Others*, in support of his contention that a specified route is not a condition of the permit. There the learned Judges held that the time fixed by the Regional Transport Authority at the time of the grant of the permit was not one of the conditions of the permit and that an application to vary the timings could not be regarded as an application for a permit within the purview of Rule 208 (b) of the Rules. They also held that Section 48-A had no application to the case because there had been no variation, cancellation or addition to any of the conditions attached to a stage carriage permit. The decision does not touch the question as to whether the extension of a route amounts to a variation of the conditions of the permit.

8. In a later decision in *Rangaswami Raja v. State of Madras* 1953 2 M LJ 31, *Rajamannar C. J.*, and *Venkatarama Ayyar J.*, held that "the principle underlying R. 208 (b) framed under the Motor Vehicles Act is that whenever an application is made for extension of a route in a permit, though in form it might be an application for the variation of a condition, when the variation sought is in substance for grant of additional benefits or privileges or facilities, the application for variation should be considered to be an application for a permit."

9. In *Somasankara Sastry v. Regional Transport Authority* writ petition No. 277 of 1957 (Andh-Pra), I have reached the conclusion, after an examination of the material provisions of the Act, that, as mentioned in Section 48 (d) (ii-a) "the stage carriage or stage carriages shall be used only on specified routes in a specified area", is a condition of the permit. In fact, this was the view taken by a Full Bench of the Rajasthan High Court in *Jairamdas Vs. Regional Transport and Others*, and I am in respectful agreement with that view.

10. From the facts mentioned above, it is clear that the Regional Transport Authority, after hearing the petitioner's objections, accepted the proposal for the variation of the route. The variation was subsequent to the coming into force of the Motor Vehicles (Amendment) Act 100 of 1956 which contains a specified provision Section 48 (3) (xxi), in this behalf namely that the Regional Transport Authority may, after giving notice of not less than one month, (a) vary the conditions of the permit, and (b) attach to the permit further conditions. If this provision is applicable to the instant case, as I hold it to be, there can be no doubt that the Regional Transport Authority can vary the existing route.

11. It remains only to notice one more contention raised by the learned counsel for the petitioner, viz., that notwithstanding the change effected by Section 48 (3) (xxi), Section 48-A introduced by the Madras Legislature would still apply. I have held in W.P. No. 277 of 1957 (Andh-Pra) that even under the un-amended Act, the Regional Transport Authority could exercise the power of varying the conditions of the permit. Assuming, however, that under that section the Regional Transport Authority could not do so, the question is whether Section 48-A, introduced by the Madras Legislature, is still applicable. Article 254 of the Constitution provides the solution in the case of an inconsistency between the

laws made by the Parliament and the Laws made by the Legislatures of the States. It reads:

"254 (1). If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of Clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing Law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void."

12. If Section 48-A is inconsistent with Section 48(3) (xxi), (introduced by the Central Amendment Act), the central law prevails and S. 48-A shall, to the extent of the repugnancy be void. Therefore, by reason of Article 254 of the Constitution, Section 48-A must be held to have been rendered void.

13. In all the circumstances of the case, I do not find any ground for the issue of a writ of prohibition as prayed for by the petitioner. This writ petition, therefore, fails and is dismissed with costs Advocate's fee Rs. 100/-.

14. I am indebted to the learned Government Pleader Mr. P. Ramachandra Reddy, who has placed before me the relevant aspects of the matter though he has been instructed by the Government not to intercede in the petition.