
(1976) 05 RAJ CK 0006
In the Rajasthan High Court
Case No : Civil Writ Petition No. 739 of 1975

Tagaram

APPELLANT

Vs

State Transport Appellate Tribunal and Others

RESPONDENT

Date of Decision : 10-05-1976

Acts Referred:

Motor Vehicles Act, 1988 — Section 64(1)(f)

Citation : (1976) WLN 181

Hon'ble Judges : D.P. Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.P. Gupta, J.—A new bus route from Jalore to Chitalwana via Bhagli (hereinafter referred to as "the route") which is 168 kilometres long was opened by the Regional Transport Authority, Jodhpur (hereinafter referred to as "the R.T.A.") and a limit of three permits and one return trip every day was fixed by the R.T.A. on the route. The R.T.A. invited applications for the grant of three permits on the route. The respondents Nos. 3 and 4 submitted applications for grant of permits on the route which were duly published in accordance with law. The petitioner, who is an operator of an overlapping route, is alleged to have filed objections or representation on March 6, 1973 in respect of the applications of the respondent Nos. 3 and 4, u/s 57(4) of the Motor Vehicles Act (hereinafter referred to as "the Act"). The matter relating to the grant of non-temporary stage carriage permits on the route came up for consideration before the R.T.A. . on February 25. 1974 and two permits granted by it, one each to the respondents NOS. 3 and 4 The grantees were directed to avail of the permits sanctioned to them within a period of 60 days. It appears that one of the grantees submitted an application for and extension of time. The Secretary, R.T.A. by his order dated April 30, 1974 allowed thirty days" further time to Lalkhan respondent No 4 for availing of the permit granted to him on the route. Thereafter both the grantees applied for further extension of time but the Secretary, R.T.A. by his order dated July 30,

1974 refused to further extend the time for availing of the permits, granted by the R.T.A to the respondents Nos. 3 and 4.

2. The petitioner filed an appeal before the State Transport Appellate Tribunal, Rajasthan (hereinafter referred to as "the Tribunal") against and grant of permits to the respondents Nos. 3 and 4 on the route, while the respondents Nos. 3 and 4 also filed appeals against the condition imposed upon them by the R.T.A. of availing the permits granted to them within a period of 10 days. The Tribunal heard all the three appeals together and by its order dated February 6, 1973, while the Tribunal dismissed the appeal preferred by the petitioner, it partly allowed the appeals filed before it by the respondents Nos. 3 and 4 and modified the resolution of the R.T.A. dated February 25, 1974 to the extent that the said respondents Nos. 3 and 4 were allowed to avail the permits granted to them on the route by the R.T.A., on four wheel drive vehicles, in view of the sandy and Kutch nature of the route, and also allowed the grantees 60 days' further time from the date of the aforesaid order of the Tribunal, to avail of the permits and place their four wheel drive vehicles on the route.

3. The petitioner has filed the present writ petition against the aforesaid order of the Tribunal dated February 6, 1975. The first contention advanced by the learned Counsel for the petitioner was that the appeal filed by the petitioner before the Tribunal, against the order of the R.T.A. granting non-temporary stage carriage permits to the respondents Nos. 3 and 4 on the route, was erroneously dismissed by the Tribunal on the ground that the appeal was not maintainable. An objection was taken before the Tribunal by the respondents Nos. 3 and 4 that the petitioner failed to furnish copies of the representation, alleged to have been submitted by him in the office of the R.T.A., simultaneously to the applicants for grant of permits, namely the respondents Nos. 3 and 4 and as such the foundation for filing of an appeal u/s 64(1)(f) of the Act was not legally laid by the petitioner. The Tribunal was of the view that the petitioner failed to submit prima facie evidence before it of the fact that he had simultaneously furnished copies of the representations, to respect of the applications of the respondents Nos. 3 and 4, to to them and as such a proper foundation for filing of an appeal u/s 64(1)(f) of the Act was not laid by the petitioner. The Tribunal thus held that the appeal preferred by the petitioner before it was not maintainable and dismissed the same on this ground alone.

4. Learned Counsel for the petitioner submitted that the petitioner had produced a certified copy of the objections or representation submitted by him before the R.T.A. dated March 6, 1973 and that in the aforesaid objections it has been mentioned that copies thereof were sent to the applicants for grant of permits by registered post. It was also pointed out that the learned Counsel for the petitioner was heard by the R.T.A. as an objector and no protest was made on behalf of the respondents Nos. 3 and 4 in this respect before the RTA. However the respondents Nos. 3 & 4 had taken a specific objection before the Tribunal that copies of the representation, alleged to have been submitted by the

petitioner before the R.T.A. in respect of their applications for grant of permits, were not furnished to them by petitioner. Yet the petitioner failed to produce before the Tribunal either the postal receipts or acknowledgement receipts in respect of sending the copies of his objections to the respondents Nos. 3 and 4 by registered post. Even to the present writ petition, the petitioner has not produced the postal receipts or the acknowledgement receipts in respect of the delivery of copies of his objections to the respondents Nos. 3 and 4. In these circumstances, the inference drawn by the Tribunal that the petitioner failed to prove that he had simultaneously furnished copies of his representation to the respondents Nos. 3 and 4 appears to be reasonable and deserves to be upheld. It may also be observed in this connection that mere mention, in the objections submitted by the petitioner before the R.T.A., that copies thereof were being sent to the applicants for grant of permits by registered post, cannot lead to the conclusion that such copies must have actually been furnished or served upon the respondents Nos. 3 and 4, by or on behalf of the petitioner. Moreover, merely because the counsel for the petitioner was heard before the R.T.A. it would be difficult to draw a presumption to the effect that the petitioner must have furnished copies of his representation to the respondents Nos. 3 and 4. It was the duty of the petitioner to produce at least prima facie evidence of his having furnished copies of his representation or objections to the respondents Nos. 3 & 4, when a specific challenge in this respect was made before the Tribunal. The petitioner failed to satisfy the Tribunal that he sent copies of the representation, submitted by him before the R.T.A. in respect of the applications of the respondents within the prescribed time or soon thereafter. There is no reason to interfere with the finding of the Tribunal on this score and it must be held that the appeal filed by the petitioner was rightly dismissed by the Tribunal as not maintainable because the petitioner was unable to prove that he laid proper foundation for filing an appeal, required by the provisions of Section 64(1)(f) of the Act.

5. The next submission made by the learned Counsel for the petitioner was that three miles portion of the route from Jalore to Bhagli formed a part of the notified route and, therefore, the respondents Nos. 3 and 4 could not be granted permits in respect of a portion of the notified route in contravention of the nationalization scheme. There can be no quarrel with the legal position relied upon by the learned Counsel for the petitioner that no non-temporary stage carriage permit could be granted by the R.T.A. in respect of a portion of the notified route, relating to which a scheme of total exclusion of private operators has been published by the State Government u/s 68D (3) of the Act. But in the present case, the petitioner has not been able to satisfy this Court that the route of the permits of the respondent Nos. 3 and 4 overlapped a part of the notified route. The question was agitated by the petitioner before the R.T.A. but the said Authority observed that the learned Counsel for the respondents Nos. 3 and 4 produced maps of the route and cleared the position in this respect. When the matter was raised by the petitioner before the Tribunal, it made the following

observation in this respect:

It may however be stated that neither the R.T.A. had any jurisdiction to grant a permit covering a notified portion nor the permit-holders could ply on any portion covering the notified route. The permit so granted would obviously not cover any portion of the notified route.

It thus appears that both the R.T.A. as well as the Tribunal satisfied themselves that the permits granted to the respondents Nos. 8 and 4 did not cover any portion of the notified route. The respondents Nos. 3 and 4 have also stated in their reply to the writ petition that they were plying their vehicles through the Kutcha route from Jalore to Bhagli, although the notified route from Jalore to Bhagli was along the puce road. There is no reason not to accept the version of the respondents Nos. 3 and 4 in this connection, as the same is in consonance with the view expressed by the R.T.A. as well as by the Tribunal, This contention of the learned Counsel is also repelled.

6. The last contention raised by the learned Counsel for the petitioner was that the Secretary, R.T.A. to whom the power to extend the time for availing of the permits was delegated by the R.T.A., refused to extend the time by his order dated July 30, 1974 and as such it must be implied that the grant of permits made in favour of the respondents Nos. 3 and 4 automatically lapsed after July 30, 1974 and that the Tribunal had thereafter no jurisdiction to extend the time for availing of the permits on the route by the respondents Nos. 3 and 4. It may be observed in this connection that in the present case no peremptory condition was imposed by the R.T.A. while granting permits in favour of the respondents Nos. 3 and 4 on the route.

7. This Court in *Jaihind Co-operative Transport Society Limited, Jaipur v. Appellate Authority, Rajasthan, Jaipur and Ors.* ILR 1958 Raj 27 held, while interpreting Rule 86 (b) of the Rajasthan Motor Vehicles Rules, 1951 that in case the certificate of registration of the vehicle, on which the permit is sought to be availed, is not produced within the prescribed period, the authority is empowered to revoke its sanction granted in favour of such grantee, but the revocation of such sanction is not automatic and it has to be recorded. In the present case, the respondents Nos. 3 and 4 were granted some extension of time, but later on the Secretary, R.T.A. refused to grant further extension by his order dated July 30, 1974, However, the matter was never placed before the R.T.A. for consideration nor the said Authority ever passed any order revoking its sanction, regarding the grant of permits in favour of the respondents Nos. 3 and 4 The result was that the sanction of the permits granted in favour of the respondents Nos. 3 and 4 continued to subsist. In these circumstances, the Tribunal was perfectly within its rights to extend the time allowed to the respondents Nos. 3 and 4 for availing of the aforesaid sanction of permits granted to them by the R.T.A. In the case of *Jaihind Co-operative Transport Society Limited, Jaipur* (1) a similar situation arose as the sanction of the permit granted to the society was not revoked by the R.T.A., although it granted extension for some time and thereafter refused to

grant further extensors. This Court held that the expiry so the extended period made the Society liable to an order for revocation of the sanction But as the R.T.A. did not specifically pass an order revoking the sanction of the permits granted in favour of the respondent society, the order refusing to allow further extortion of time could not amount of service ton of the grant of permit in favour of the Society. It was held by this Cont that there could be no implied revocation and in such cases the R.T.A. was perfectly within its jurisdiction to allow further more to the grantees to avail of the grant of permits even later on until the sanction of such permits was expressly revoked In the present case also the grant of the permits in favour of the respondents Nos. 3 and 4. has never been revoked by an express order passed by the R.T.A. and as such the grant of such permits subsisted and the Tribunal, therefore, acted weir its jurisdiction in granting 60 days" further time to the respondents Nos. 3 And 4 for employing vehicles in respect of the permits granted to them on the route.

8. No other point was argued before me.

9. In view of the aforesaid discussion, the writ petition fails and is dismissed as such. The parties are left to bear their own costs.