
(1964) 03 AP CK 0016

In the Andhra Pradesh High Court

Case No : Writ Appeal No's. 72 and 73 of 1963

The Executive Officer, T.T. Devasthanams Tirupathi

APPELLANT

Vs

K. Ramachandra Naidu and Others

RESPONDENT

Date of Decision : 11-03-1964

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1988 — Section 68D

Citation : AIR 1966 AP 112

Hon'ble Judges : P. Chandra Reddy, C.J.;Kumarayya, J

Bench : Division Bench

Advocate : P. Ramachandra Reddy and E. Kalyanram, in W.A. No. 72 of 1963 and P.R. Ramachandra Rao, in W.A. No. 73 of 1963, for the Appellant; P. Babulu Reddy, E.P.K. Sikhamani, P. Ramachandra Reddy and E. Kalyanram, in W.A. No. 73 of 1963, P.R. Ramachandra Rao in W.A. No. 72 of 1963 and Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

Chandra Reddy, C.J.—These two appeals are directed against the judgment of our learned brother Justice Jaganmohan Reddy in W. P. 904/61 quashing the order of the State Transport Authority granting two permits to each of the appellants to ply buses from Vijayawada to Tirupati.

2. The two appellants filed petitions before the State Transport Authority for opening a new route -- Vijayawada to Tirupati and for two permits for plying vehicles on the route. On receipt of these up applications, the State Transport Authority called for objections and sex oral bus operators, as also the Southern Railways, filed their objections.

3. The respondent who is one of the operators plying his buses between Nellore and Kalahasti and Nellore and Chittoor, objected to the opening of the route and the grant of two permits on the ground that the procedure prescribed by Section 57(2) of the Motor Vehicles Act (hereinafter called the Act) should have been

followed and he should have been allowed to apply for the permits himself. He also contended that the timings given for these vehicles would adversely affect him. The State Transport Authority after a careful consideration of the objections overruled them and gave the permits to the appellants.

4. The respondent aggrieved by this decision, invoked the jurisdiction of this Court under Art. 226 of the Constitution reiterating his contentions and also advancing fresh ones, viz., that the State Transport Authority was not duly constituted and even otherwise it was not competent for that authority to grant (he permits).

5. While this writ petition was pending, the Supreme Court has to consider the effect of nationalisation of certain routes under Chapter IV-A of the Act on applications for permits in regard in routes embracing that notified under that chapter. Their Lordships ruled that when a scheme was notified u/s 68-D of the Act, and when Rajya Transport corresponding to Road Transport Corporation had been granted a permits or even applied for them in regard to lat route, no private operator could be granted a permit on a route which included the route under the scheme. Their Lordships referred to Abdul Gafoor Vs. State of Mysore, in which it was ruled that when a scheme has been notified u/s 68-D of the Act, and an application is made by a private operator for the grant of a permit on a route notified under the scheme, the Regional Transport Authority had no option but to refuse the permit to the private operator, if the State Transport Undertaking has either applied for a permit or has already been granted one, and adopted the rationale thereof to the case before them, namely, Nilkanth Prasad and Others Vs. State of Bihar, .

6. Dealing with Kelani Valley Motor Transit Co. Ltd v. Colombo Ratnapura Omnibus Co. Ltd., 1946 AC 338 which made a distinction between a highway and a route, the learned Judges observed that the pronouncement of the Judicial Committee of the Privy Council was not applicable to applications under the provisions of the Motor Vehicles Act. Said their Lordship in the course of the judgment:

"The ruling of the Judicial Committee cannot be made applicable to the Motor Vehicles Act, particularly Chapter IVA, where the intention is to exclude private operators completely from running over certain sectors or routes, vested in State Transport Undertakings. In our opinion, therefore, the appellants were rightly held to be disentitled to run over those portions at their routes which were notified as part of the scheme. Those portions cannot be said to be different routes, but must be regarded as portions of the routes of the private operators, from which the private operators stood excluded u/s 68F (2) (c) (iii) of the Act." .

Founded upon this dictum was the argument of the learned counsel for the respondent before our learned brother that as a part of the route applied for in relation to which permits were applied for, was already notified and the Road Transport Corporation was given permits, namely, the route between Vijayawada

and Guntur and between Guntur and Ongole, the State Transport Authority had no competence to grant permits to private operators viz., the Tirupati Devasthanams and the Road Transport Corporation.

7. Our learned brother while repelling all the contentions urged on behalf of the respondent (raised in the writ petition as also before the State Transport Authority) accepted the writ petition on the basis of the judgment of the Supreme Court adverted to above. With regard to the contention presented on behalf of the grantees of the permits that the respondent had no locus standi to maintain the application as no personal legal right of his was infringed, the learned Judge remarked that by reason of the invalid and illegal grant of the permit the latter's business was likely to be affected and he had a right to file the writ petition. In the result, the order of the State Transport Authority was set aside.

8. The two grantees, namely, the Tirumalai Tirupati Devasthanams, as also the Road Transport Corporation, have brought these two appeals impeaching the conclusion of our learned brother.

9. First and foremost, it is contended on behalf of the appellants that the respondent has no personal right in regard to the grant of these permits which can be said to have been violated by the State Transport Authority. It is argued that as it is the case of the respondent that in the circumstances mentioned above, no private bus operator had a right to apply for a permit, and so he himself could not have obtained a permit it could not be postulated that he had any personal legal right which had been contravened by the order of the State Transport Authority. This contention is based on a number of decisions of the Supreme Court as also the High Court of Madras and this High Court. We are impressed with this argument.

10. The respondent could not be regarded as a person affected by the issue of a permit, as it is not his case that the permit which he is holding has been cancelled or that his application for a permit was wrongfully rejected. It may be incidentally mentioned here that in the affidavit in support of the writ petition, it was recited that there was no illegality in the issue of the permits to the Tirumalai Tirupati Devasthanams and the Road Transport Corporation and that he had not applied for a permit. Be that as it may, he could not complain against the grant of permits on the ground that a legal right of his had been infringed. It is only a person who suffered infraction of his personal legal right that can seek to remove the order of a tribunal on certiorari. The circumstance that the order might indirectly affect him does not clothe him with a locus standi to seek to quash the order of a tribunal.

11. This opinion of ours is vouched by a judgment of the Supreme Court in *The Calcutta Gas Company (Proprietary) Ltd. Vs. The State of West Bengal and Others*, . Justice Subba Rao, speaking for the Court, observed inter alia:

"The right that can be enforced under Article 226 also shall ordinarily be the

personal or individual right of the petitioner himself, though in the case of some writs like habeas corpus or quo warranto this rule may have to be relaxed or modified."

In another place of the judgment it is observed: "The Article in terms does not describe the classes of persons entitled to apply thereunder; but it is implicit in the exercise of the extraordinary jurisdiction that the relief asked for must be one to enforce a legal right." His Lordship also referred to the case of *The State of Orissa Vs. Madan Gopal Rungta*, where it was stated that the existence of the right is the foundation of the exercise of jurisdiction of the court under Article 226 of the Constitution.

12. There are other decisions of the Supreme Court in the same trend of thought.

13. A Division Bench of this Court in *P. Satyanarayana Vs. The State of Andhra Pradesh by the Secretary, Home (Transport Department), Hyderabad and Others*, held that a person, the terms of whose permit were not varied, was not entitled to appeal against the change in the timings given to another bus operator on the complaint that this might indirectly affect him.

14. In *C.S.S. Motor Service, Tenkasi and Others Vs. The State of Madras and Another*, Justice Venkatarama Aiyar, who delivered the opinion of the Division Bench said that the adequacy of the existing services could not be a ground for not extending them. The learned Judge observed that the crux of problem was whether the grant of the permit was for the benefit of the public and not whether it is injurious to the interests of the existing operators.

15. On the principles enunciated in these rulings and on a consideration of the general rules of law, it is difficult to postulate that the respondent has a personal legal right in this matter and by the issue of the permits to the present appellants, that right has been violated. The grant of a permit to him to ply his bus on a particular route does not involve any guarantee of minimum profits. Our attention was not drawn to any provisions of the Motor Vehicles Act or to any general principle of law which recognises a right to an operator to rule out competition and to question the propriety of the grant of permits to others on the ground that his profits are likely to be reduced.

16. Moreover it is not shown how his business is affected by these permits. All that could be posited is that there is a possibility of a few passengers who might have travelled in his vehicles, may travel by the bus miming from Vijayawada to Tirupati as that is more convenient. That is a mere possibility.

17. Further it must be borne in mind that by the grant of permits to the appellants, the interests of the travelling public have been advanced rather than injuriously affected. It serves the convenience of the passengers from Vijayawada to Tirupati, in that it obviates the necessity of their changing the vehicle at several places.

18. For these reasons, we hold that the respondent is not competent to challenge

the correctness or the validity of the order of the State Transport Authority issuing permits to the two appellants.

19. In this view of" ours, it is not necessary to consider whether an order of the Tribunal could be challenged on any ground not raised and argued before it.

20. In the result, the appeals are accepted and the writ petition dismissed with costs throughout. Advocate's fee Rs. 75 in each.