
(1996) 12 SC CK 0067

In the Supreme Court Of India

Case No : Civil Appeal No. 811 of 1986

Vikram Shitole and another

APPELLANT

Vs

Madhya Pradesh State Road Transport Corporation and others

RESPONDENT

Date of Decision : 11-12-1996

Acts Referred:

Motor Vehicles Act, 1988 — Section 68D(3)

Citation : AIR 1997 SC 1650 : (1997) AIRSCW 700 : (1997) 1 JLJ 255 : (1997) 1 JT 305 : (1997) 1 PLJR 48 : (1997) 2 RLW 203 : (1996) 9 SCALE 719 : (1997) 3 SCC 498 : (1996) 9 SCR 961 Supp : (1997) 1 Supreme 257

Hon'ble Judges : K. Ramaswamy, J;G.T. Nanavati, J

Bench : Division Bench

Advocate : M.N. Krishnamani and Pravir Choudhary, for the Appellant; Rajinder Narain and Co. (NP), for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal by special leave arises from the judgment of the Madhya Pradesh High Court, Gwalior Bench in Miscellaneous Petition No. 572 of 1985 dated January 13, 1986.

2. The admitted position is that the route in question, i.e., Gwalior to Indore, was notified under Chapter IV-A of Motor Vehicles Act ("Act 4 of 1939", for short) which has been repealed and re-enacted by Motor Vehicles Act, 1988). After the approved route was published u/s 68D(3), a scheme was framed under which unemployed graduates were permitted under "self-employment scheme" to operate the stage carriages on the notified route, subject to certain terms and conditions. It would appear that the appellants did not comply with the said terms and conditions as a result of which their permits were cancelled by the authorities. Calling the action in question the appellants filed, a writ petition. The High Court has dismissed the said writ petition. Thus, this appeal by special leave.

3. The controversy is no longer res integra. It is settled legal position that once notification under Sub-section (3) of Section 68-D of the Act is published in the

Gazette, all the pre-existing operators shall cease to operate on the frozen routes except in accordance with the terms and conditions mentioned in the scheme itself which is law by itself. If the State Road Transport Corporation fails to obtain permit, power has been granted to STA/RTA to grant temporary permit until S.R.T.C. obtains regular permits. In this case, admittedly, the State Road Transport Corporation had the permits obtained and that, therefore, under the notified scheme no one except the State Road Transport Corporation shall exclusively ply the stage carriages on the notified route in terms of the scheme itself. The self-employment scheme therefore, is obviously illegal. This Court in the case of Brij Mohan Parihar Vs. M.P. State Road Transport Corporation and Others, , considered this aspect of the matter and in paragraph 3 of the judgment it was held that it is not, however, permissible under the Act for the Corporation to obtain a permit under Chapter IV-A of the Act and to allow a private operator as its nominee to operate under that permit his motor vehicle as a stage carriage on the notified route. It cannot be granted permission to collect any money either as nomination fees or as royalty or supervision charges. Thus, it would be seen that in a notified frozen route no private operator is entitled to ply the stage carriage. Accordingly, we hold that dismissal of the appellants' writ petition by the High Court is not vitiated by any error of law warranting interference.

4. The appeal is accordingly dismissed. No costs.