

(1962) 02 AHC CK 0022
In the Allahabad High Court
Case No : Writ Petition No. 567 of 1961

W.L. Ross

APPELLANT

Vs

Regional Transport Authority Lucknow Region and Another

RESPONDENT

Date of Decision : 22-02-1962

Acts Referred:

Constitution of India, 1950 — Article 226

Motor Vehicles Act, 1939 — Section 57, 57(2), 58, 58(2)

Citation : AIR 1962 All 574

Hon'ble Judges : N.U. Beg, J

Bench : Single Bench

Advocate : A.J. Fanthome, for the Appellant; Junior Standing Counsel, for Opposite Party 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

N.U. Beg, J.—Two persons namely, Abdul Aziz and Uma Shanker Misra held one stage carriage permit each. The permit of Abdul Aziz was permit No. 112. It fell due for renewal on the 28th of January 1960. The permit of Uma Shanker Misra was Permit No. 133. It fell due for renewal on the 2nd of April 1960. Both these persons applied for renewal of their permits. It appears that Abdul Aziz had not applied for renewal of his permit within time. Realising, therefore, that his application was beyond limitation, he applied for a fresh permit also. A third person viz. Sri W.L. Ross, who is the petitioner in this case, also applied for a fresh permit, in case the permit of any of the other persons was not renewed. On the 9th of April, 1960, the petitioner filed objections to the renewal of the said permits. On the 29th of April, 1960, the Regional Transport Authority met to dispose of these applications. On that day permit no. 133 in favour of Uma Shankar was allowed to be renewed. So far as permit No. 112 which belonged to Abdul Aziz was concerned, the Regional Transport Authority rejected its renewal on the ground that it was time barred. It then went on to consider the application of the petitioner for a fresh permit and his objections.

It may be mentioned at this stage that one more person had filed objections to the renewal, and had also applied for a fresh permit. The order of the Regional Transport Authority in respect of these two objectors was as follows:

"The two objectors have filed applications for fresh permits which were considered in the light of the arguments made by their counsel. The applications are incomplete in so far as the additional information on the required questionnaire has not been Submitted. They may be advised to do so now. Invite applications for fresh permit upto 30 days from the date of publication in the gazette. The question of increasing the strength of buses on this route will also be considered at the time of grant of fresh permits. The applications of the two objectors and that of Sri Abdul Aziz will be considered along with others."

Sri. W. L. Ross filed an appeal against this order. It came up for hearing before the State Transport Authority Tribunal. The Tribunal dismissed this appeal on the ground that the Regional Transport Authority had not so far parsed any final orders on the application of the appellant W.L. Ross, and had reserved his application for a fresh permit for consideration along with other applications. The Tribunal, accordingly, dismissed the appeal on the 2nd of February, 1981. Thereafter Sri W. L. Ross filed the present writ petition on the 17th of March, 1961.

2. The sole argument of the learned counsel for the petitioner before me has been that when an application for renewal of permit is made by a party, and, at that time, an application for a fresh permit is also made by another party, it is not open to the Regional Transport Authority to invite applications for a fresh permit u/s 57 (2) of the Motor Vehicles Act. The further argument of the learned counsel for the petitioner in this connection is that in this situation the Regional Transport Authority is bound to grant the application of the other party where the other party happens to be the only party that is competing with the applicant who had applied for renewal. The result, according to the learned counsel, is that where the application for renewal is dismissed, the Regional Transport Authority is bound to grant the application of the other party where he remains the only applicant for a fresh permit.

3. I have heard the learned counsel for the petitioner at great length and have found it difficult to accept his contentions in this regard. It may be mentioned at the very outset that the assumption of the learned Counsel that the petitioner was the sole applicant for a fresh permit, and the only competitor against the applicant for the renewal of permit does not appear to be correct. The order of the Regional Transport Authority dated the 29th of April, 1960 cited above itself states that there were two objectors who had filed applications for a fresh permit. If there were two objectors, as indicated by the said order, then the entire foundation for the argument of the learned counsel disappears, and his contention is liable to be repelled on this ground alone.

4. On the wider question also raised in this connection, I find it difficult to accept

the soundness of the legal argument advanced by the learned counsel for the petitioner. The broad proposition contended for by the learned counsel is that when an application for renewal is made and another party objects and applies for a fresh permit the Regional Transport Authority is barred altogether from inviting fresh applications u/s 57 (2) of the Motor Vehicles Act. The learned counsel for the petitioner has, in support of his contention, relied strongly on the last proviso appended to Section 58 (2) of the Motor Vehicles Act, 1939. According to this provision of law an application for renewal of a permit may be made and disposed of as if it were an application for a permit, provided that the said application for renewal is made within the time specified in the said sanction, and provided further that other conditions being equal an application for renewal shall be given preference over new applications for permit.

The effect of the second proviso, according to the learned counsel, is that, in this situation, the Regional Transport Authority is barred from taking action u/s 57 (2) and inviting fresh applications thereunder. I am unable to read all such prohibition in this proviso. In my opinion all that this proviso lays down is that it is send to the Regional Transport Authority to consider other applications also at the time of considering the application for renewal by a person who already holds a permit. When an application for renewal, of a permit is made, it is open to other parties to file objections to such renewal. In this situation the law provides that the Regional Transport Authority shall consider such objections, and, in view of these objections it is open to the Regional Transport Authority to refuse to grant the application for renewal. In case, however, the Regional Transport Authority finds that taking into consideration the application for renewal as well as the objections made to the same, the merits of the other parties are not higher than those of the applicant for renewal, the Regional Transport Authority should give preference to the applicant who has applied, for renewal.

As a result of objections filed by other parties, the Regional Transport Authority might come to the conclusion that the application for renewal of permit must be rejected. If it rejects the application for renewal then the question that arises is whether they are bound to grant the permit to one of the applicants for a fresh permit, or is it open to them to call for fresh applications u/s 57(2) of the Act. The learned counsel argues that in this situation the authority cannot have recourse to S. 57(2) of the Act, and must grant the application of one of the other parties. I find it difficult to accept this argument. The Regional Transport Authority may find that even the competing applicants who have applied for fresh permits are unfit to be granted permits or their applications are defective for some reason or the other.

If the argument of the learned counsel for the petitioner is accepted, the result would be that the Regional Transport authority would be bound to grant permit to one or the other applicants, however defective his application might be and however unworthy and unfit he might be a holder of a stage carriage permit. In Such a situation I do not see any bar in law to their inviting fresh applications in

order that more competitors may come in the field, and it may be able to pick out a better person who might be able to serve public needs in this regard more efficiently. This is exactly what was done in the present case. The order of the Regional Transport Authority shows that the application filed by the petitioner was defective in so far as it was incomplete, and did not give full information on certain points which the Regional Transport Authority considered necessary and essential before the grant of a permit. It, accordingly, reserved the consideration of the application of the petitioner on merits till after it had invited fresh applications.

In my opinion the interpretation placed by me above will also be conducive to public interests in so far as it would enable the Regional Transport Authority to pick out persons who are most suitable for holding a stage carriage permit. Any other interpretation might have seriously prejudicial consequences, because, in case it rejects the application for renewal and while doing so, it also finds at that stage that all the other applicants for a fresh permit are also unfit to hold the permit, they would still be bound to bring the permit to one of them. This would be a very unfortunate result. I would be loath to accept an interpretation which leads to results so unreasonable, unless compelled by the clear words of the Statute, I find nothing in the Act which ties down the hands of the Regional Transport Authority and prohibits it from having recourse to Section 57 (2) of the Act in such a situation.

5. Learned counsel for the petitioner has relied on two cases of the Supreme Court in support of his contention. They are *Ram Gopal Vs. Anant Prasad and Another*, and *Ayodhya Prasad Ramnarain v. Raghunath Singh* Civil Appeal No. 395 of 1960, D/- 14-11-1960 (SC). All that these cases lay down is that when an application for renewal of a permit is made by a party and some other parties have also applied for a fresh permit, the application by other persons can be considered along with the application for renewal. In the present case the Regional Transport Authority did consider the application of the petitioner. The minutes of the meeting of the Regional Transport Authority held on the 29th of April, 1960, itself show that, as stated therein, it had met to consider applications for permits. It was only after applying its mind to the merits of their cases, and considering the same, that it eventually came to the conclusion that the applications of objections could not be granted at that stage, as they were defective in certain particulars, and did not submit information on certain relevant matters which required scrutiny. Neither of these cases goes so far as to lay down that in such a situation it is not open to the Regional Transport Authority to follow the other course, namely, to invite fresh applications u/s 57 (2) of the Motor Vehicles Act.

6. There is another reason why I am of opinion that this petition should not be granted. Learned counsel for the petitioner has stated before me that after inviting fresh applications the Regional Transport Authority did consider the case of the petitioner and finally rejected his application for a fresh permit on merits.

The situation, therefore, at present is that his application was considered by the Regional Transport Authority on merits and eventually rejected. It Was open to the petitioner to go up in appeal against that order before the State Transport Authority Tribunal. Learned counsel for the petitioner informs me that no such appeal was filed by the petitioner. The sole purpose of filing the present writ petition is that this Court should quash the order of the State Transport Authority Tribunal in order that it might remand the case of the petitioner to the Regional Transport Authority for considering his application on merits and disposing it of finally.

The situation today is that the Regional Transport Authority has already considered the application of the petitioner on merits, and, after fully considering it, it has finally rejected the same on the 4th of November, 1961. The purpose of the present writ petition has, therefore, been served. In the circumstances the present writ petition has become futile, further, the petitioner has not availed himself of the remedy of appeal which was open to him. In this situation I am of the opinion that this Court should not interfere with the matter in its writ jurisdiction. Relief by way of writ is discretionary, and where the purpose sought for is already achieved, the Court should not move in the matter,

7. For the above reasons I see no substance in this writ petition. I, accordingly, dismiss it with costs.