

J.K. Appacha Vs. State of Mysore and ors.

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Court : Karnataka

Decided On : Sep-18-1967

Reported in : AIR1968Kant110; AIR1968Mys110; (1967)2MysLJ519

Judge : A.R. Somnath Iyer and ;B.M. Kalagate, JJ.

Acts : Motor Vehicle Act

Appeal No. : Writ Petn. No. 1396 of 1965

Appellant : J.K. Appacha

Respondent : State of Mysore and ors.

Judgement :

Somnath Iyer, J.

(1) In respect of the route between Veerajpet and Bhagamandala in the district of Coorg, there were six applicants who aspired to operate their stage carriage along that route. The Regional Transport Authority of Coorg by a resolution passed on May 6, 1958 granted the permit to respondent 4 who was one of those six applicants. The Petitioner who was one of those six applicants and whose application was refused by the Regional Transport Authority, applied to the State Transport Appellate Tribunal and that appeal was dismissed. So he has presented this writ petition in which he has asked us to quash the permit granted to

respondent 4 and to issue a mandamus to the Regional Transport Authority for a fresh disposal of the applications.

(2) In support of the application, two grounds were raised in the affidavit. The first of them is that the resolution passed by the Regional Authority was invalid by reason of the non-participation of a non-official member at the meeting in which the resolution was passed.

(3) Mr. Puttaswamy very rightly withdraws from this contention since there was a quorum prescribed by the rules at the meeting in which the resolution was passed and the rule prescribing that quorum was pronounced quit valid by this court.

(4) But the other ground which Mr. Puttaswamy has pressed before us is that although the Regional Transport Authority when it was constituted was composed of four members, it consisted of only three when the resolution was passed. The other member of the Regional Transport Authority, according to Mr. Puttaswamy, was the Superintendent of Police of the District of Coorg, who, when the resolution was passed had been transferred to the K. G. F. and no one had been appointed in his place. So we were asked to say that the Regional Transport Authority which did not consist of its entire complement when it passed the resolution, did not possess the power to consider the applications and that the selection of respondent 4 was therefore bad.

(5) Now, when the constitution of the Regional Transport Authority was made by Government by notification under section 44(2) on September 24, 1964, it was composed of four members. The first was Mr. Issar who was the Deputy Commissioner, the Second was Mr. Giriappa who was the Executive Engineer, the third was Mr. Varadaraja Iyengar who was the Superintendent of Police and the fourth was Dr. Nananmiah who was a non-official.

(6) Rule 8 of the Rules made under the Motor Vehicle Act directed the appointment of the members of the Regional Transport Authority by name, and so it was that although there were three official members in the composition of the Regional Transport Authority, all of them were appointed by name, and no ex-officio. Mr. Varadaraja Iyengar who was the Superintendent of Police in Coorg at

that time was one of those persons so appointed. If he was appointed eo nomine as required by rule 88 and not ex officio, his transfer from the district of Coorg to another place, did not create a vacancy in the Regional Transport Authority. He continued to be a member of that Authority wherever he was, and so the non-appointment of another in the vacancy caused in the Office of the Superintendent of Police which Mr. Varadaraja Iyengar held, did not cause a vacancy in the composition of the Regional Transport Authority.

(7) That being so, this writ petition fails and we dismiss it.

(8) No costs.

(9) Writ Petition dismissed.

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