

Abdul Majeed and anr. Vs. the Regional Transport Authority, Jhansi and anr.

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Court : Allahabad

Decided On : Nov-13-1973

Reported in : AIR1974All469

Judge : Satish Chandra and ;H.N. Seth, JJ.

Acts : [Motor Vehicles Act, 1939](#) - Sections 63(1)

Appeal No. : Special Appeal No. 242 of 1973

Appellant : Abdul Majeed and anr.

Respondent : The Regional Transport Authority, Jhansi and anr.

Advocate for Def. : V.N. Khare, ;Qamrul Hasan, Advs. and ;Standing Counsel

Advocate for Pet/Ap. : L.P. Naithani and ;S.C. Khare, Advs.

Disposition : Appeal dismissed

Judgement :

Satish Chandra, J.

1. Respondent No. 2 is a resident of the State of Madhya Pradesh. He held a stage carnage permit for the Jhansi-Mahoba route. In due course he applied for its renewal to the Regional Transport Authority, Gwalior. Madhya Pradesh. The appellants, who are operators on this route or a portion thereof, filed objections.

The Regional Transport Authority however dismissed the objections and granted the renewal. In due course, respondent No. 2 applied and obtained counter-signature from, the Regional Transport Authority Jhansi, because though a part of the route in question lay in Madhya Pradesh but both its termini were situate within U.P. The appellants challenged the action of the Regional Transport Authority Jhansi in countersigning the permit, by instituting a writ petition in this Court. The learned single Judge dismissed the petition. Hence the present appeal.

2. For the appellants it was urged that neither the Regional Transport Officer, Gwalior had jurisdiction to grant the renewal of the permit over this route, nor the Regional Transport Authority, Jhansi had jurisdiction to countersign it, because the Mahoba-Jhansi route in question lay entirely within the State of U.P. because both of its termini were situate in U.P. although a small, portion of the route ran across into the State of Madhya Pradesh. It was nevertheless a route which fell within the region in the State of U.P.

3. Section 44 of the Motor Vehicles Act empowers the State Governments to constitute Regional Transport Authorities for specified regions. They exercise powers conferred by the Act in relation to regions for which they are constituted. Section 45(1) provides:--

(1) Every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles:

Provided that if it is proposed to use the vehicle or vehicles in two or more-regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies and in case the Portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles: Provided further that if it is proposed to use the vehicle or vehicles in two or more, regions lying in different States, the application shall be made to the Regional Transport Authority of the region in which, the applicant resides or has his principal place of business.

4. Section 46 of the Act provides for various matters which an application for permit is to contain, one such matter being the route or routes or the area or areas to which the application relates. Under Section 48 the Regional Transport Authority has been empowered to grant a stage carriage permit on an application made to it under Section 46. Reading these various provisions it appears that the Regional Transport Authority to which an application for a permit can lawfully be made has jurisdiction to grant a permit on it.

5. Section 63 of the Motor Vehicles Act deals with validation of permits for use outside the region for which it is granted. It contemplates counter-signature of such permits by the Regional Transport Authority of the other region. Act 56 of 1969 added second proviso to Section 63 which was in the following terms:--

'Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometers, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State.'

6. For the appellant it was urged that this proviso contemplates that counter signature will be done by the State in which neither the starting point nor the terminal point of the route are situate and that counter signature will be necessary only if the length of the part of the route which runs across the other State is more than 16 kilometers. Exhypothesi the proviso contemplates that the Regional Authority in which both the termini are situate will alone have jurisdiction to grant the permit.

7. Section 63 has a limited field of operation. It deals with validation of permits already granted, but which are to be used outside the region for which they are granted. Whenever an occasion arises for such validation Section 63 along with its various provisions will come into operation. Section 63 therefore cannot be utilised in order to spell out power to grant permits: because that is a subject specifically covered by Section 48 read with Sections 45, 46 and 47, constituted as it is, as a proviso to Section 63(1), it is difficult to read it as a proviso to either of the

Sections 45 to 48.

8. Section 45 provides for the making of an application for permit to the Regional Transport Authority of the region in which the vehicle is proposed to be used. In other words the application is to be made to the Regional Transport Authority which has jurisdiction over the route on which the vehicle is proposed to be plied. If such route lies within the jurisdiction of one Regional Transport Authority application has to be made to it alone. But if the route lies in more than one regions within the same State, then the first proviso applies and if the route lies in two or more States then the second proviso applies. Under it the test to determine the relevant Regional Transport Authority is different than the one given under the first proviso. Under the first proviso, the Regional Transport Authority in whose jurisdiction a major portion of the route lies is the relevant one, but under the second proviso irrespective of length of route which lies in one State or the other, the relevant test is residence or the principal place of business of the applicant. The Regional Transport Authority which has jurisdiction over the place where the applicant resides or has his principal place of business, can alone entertain an application in respect of a route which lies in different States. This specific and clear provision for choosing the Regional Transport Authority which has jurisdiction to entertain an application for a permit, cannot be whittled down or limited by an implication flowing, if any, from the second proviso to Section 63(1).

9. It was urged by learned counsel for the appellant that Section 45(1) must be held to have become ineffective by the operation of the second proviso to Section 63(1). Section 63(1) comes into operation only where both the starting point and the terminal point of a route are situated within the same State and permit for such a route has been granted by such a State. If for any reason a permit has not been granted by such a State, no question of its counter-signature by the other State would factually arise. In that situation the second proviso to Section 63(1) would become inapplicable. If, because of the residence of the applicant in a particular State, an application has to be made to the Regional Transport Authority controlling the Region in which neither of the two termini of the route lie, such an authority alone will have jurisdiction to grant the permit under Section 48. But since it has granted the permit it cannot be required to countersign the same permit. On

its own terms, the second proviso to Section 63(1) does not apply where counter-signature is to be given by an authority in whose region both the termini lie. Such was the case here. The action of the Regional Transport Authority Jhansi in countersigning the permit of respondent No. 2 was valid under Section 63 CD.

10. For the appellant reliance was placed on a decision of the Supreme Court in AIR 1965 SC 1848. B.H. Aswathanarayana Singh v. State of Mysore, In that case it was argued that the scheme, which covered roads which continue beyond the State, and was in relation to an interstitial route, required approval of the Central Government under Section 63-D(8). The argument was repelled by the Supreme Court by observing;--

'Even if that is so that does not make the scheme connected with inter-State routes, for a road is different from a route. For example the Grand Trunk Road runs from Calcutta to Amritsar and passes through, a State or even within a District or a sub-division can be a route for purposes of stage carriage or goods vehicle. That would not make such a route a part of an inter-State route even though it lies on a road which runs through many States. The criterion is to see whether the two termini of the route are in the same State or not. If they are in the same State, the route is not an inter-State route.....'

11. From the statement of the facts in that case or of the arguments, it does not appear that the routes in relation to which the scheme was framed ran across into any other State. This decision is not an authority for the proposition that where both the termini of a route lie within one State, but it crosses over into another State, it would be an intra-State route to which the first proviso to Section 45 may apply.

12. The learned single Judge was justified in dismissing the writ petition. The appeal fails and is dismissed with costs.

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