

Pradeep Kumar Vs. State Transport Tribunal and anr.

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Court : Allahabad

Decided On : Aug-01-1979

Reported in : AIR1980All14

Judge : K.N. Singh and ;B.D. Agarwala, JJ.

Acts : [Motor Vehicles Act, 1939](#) - Sections 57(3) and 64; Motor Vehicles Rules - Rule 72

Appeal No. : Writ Petn. No. 5896 of 1973

Appellant : Pradeep Kumar

Respondent : State Transport Tribunal and anr.

Advocate for Def. : Standing Counsel

Advocate for Pet/Ap. : L.P. Naithani, Adv.

Disposition : Petition dismissed

Judgement :

K.N. Singh, J.

1. By this petition under Article 226 of the Constitution, the petitioner has challenged the order of the State Transport Appellate Tribunal dated 11-7-73 rejecting the petitioner's application for being impleaded as a party to the Appeal

No. 380 of 1973 filed by Raghubir Saran Jain against the order of the Regional Transport Authority, Meerut, rejecting his application for the grant of stage carriage permit.

2. The Regional Transport Authority Meerut invited applications for grant of permanent stage carriage permit on Hardwar-Rohtak route which falls within two States. A portion of the route overlaps Muzaffarnagar-Shamli-Chausana route for which the petitioner holds a stage carriage permit. The Regional Transport Authority, Meerut by its order dated 22nd March, 1973 refused to grant stage carriage permit to Raghubir Saran Jain. He filed appeal against that order before the State Transport Appellate Tribunal under Section 64 of the Motor Vehicles Act 1939 which was registered as Appeal No. 380 of 1973. During the pendency of the appeal the petitioner made an application for being impleaded as respondent to the appeal. The Appellate Tribunal rejected the petitioner's application by its order dated 11th July, 1973. Aggrieved, the petitioner has filed this petition challenging that order.

3. Learned counsel for the petitioner urged that the Appellate Tribunal committed error in rejecting the petitioner's application as in the event of appeal being allowed, the petitioner will be adversely affected and as such he was a necessary party. Having given our anxious consideration to the question raised by the petitioner, we are of the opinion that the petitioner's contention is untenable. There is no dispute that the petitioner was existing operator on Muzaffarnagar-Shamli-Chausana route but he did not file any objection against the respondent's application for the grant of permit on Hardwar-Rohtak route as contemplated by Section 57 (3) of the Act, If an existing operator fails to file a representation as contemplated by Section 57 (3) of the Act, he is not entitled to oppose the grant of permit. Section 57 (3) lays down that no representation in connection with an application made for the grant of stage carriage permit shall be considered by the Regional Transport Authority unless it is made in writing before the appointed date and simultaneously a copy of the objection is furnished to the applicant by the person making such a representation. Before an existing operator can claim right to oppose grant of permit he must file written objection before the appointed date and serve a copy thereof simultaneously to the person who may have made

application for the grant of stage carriage permit. If the existing operator fails to comply with these two conditions he has no right of hearing before the Regional Transport Authority in opposition to the grant of permit. The Appellate Tribunal while exercising its appellate powers under Section 64 of the Act, must act in accordance with Section 57 of the Act in granting stage carriage permits. The Appellate Tribunal exercises the same powers as are exercised by the Regional Transport: Authority. Since the petitioner had no right to oppose the grant of permit to the respondent before the Regional Transport Authority he could not do so even before the Appellate Tribunal as he had not filed representation in accordance with Section 57 (3) of the Act. The Appellate Tribunal was, therefore, justified in rejecting the petitioner's application.

4. Learned counsel then urged that the petitioner was a necessary party as he was likely to be affected if the relief was granted to the respondent. He relied on proviso to Rule 72. Rule 72 lays down that an appellant shall join all such persons who are likely to be affected by the relief sought in the appeal. The existing operators could not claim a right to be necessary parties to the appeal merely because they may be affected by the grant of permit. The Act lays down manner for raising objection against the grant of permit and if an existing operator failed to file objection in that manner he cannot be a necessary party in the appeal. The proviso to Rule 72 must be read in the light of the provisions contained in the Act.

In the result, the petition fails and is accordingly dismissed. The interim order stands discharged.

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