

Hardutt Singh and ors. Vs. State Transport Authority and ors.

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Court : Rajasthan

Decided On : Jul-27-1965

Reported in : AIR1967Raj208

Judge : D.S. Dave, C.J. and; Kan Singh, J.

Acts : [Motor Vehicles Act, 1939](#) - Sections 57, 64 and 64A

Appeal No. : Civil Writ Petn. No. 1646 of 1964

Appellant : Hardutt Singh and ors.

Respondent : State Transport Authority and ors.

Advocate for Def. : D.P. Gupta, Adv. for Respondent Nos. 4-24,; Raj Narain, Dy. Govt. Adv. for the State and;

Advocate for Pet/Ap. : J.P. Jain, Adv.

Disposition : Petition dismissed

Judgement :

Kan Singh, J.

1. By this writ petition under Article 226 of the Constitution the three petitioners seek to challenge the order of the State Transport Authority Rajasthan, Jaipur dated 14-9-64 (Ex. 13 on the record), by which the State Transport Authority

declined to interfere with an order of the Regional Transport Authority, Jaipur dated 7/8-3-63 (Ex. 1 on the records), on the ground that the petitioners having not availed of the remedy of an appeal could not file the revision application.

2. The three petitioners were holders of stage carriage permits on Mandawar Hindaun route. Karauli Sir Mathura route and Karauli Gangapur route respectively. Non-petitioners Nos. 3 to 24 were permit holders on the Jaipur Karauli route. Their permits were affected by a scheme of rationalisation over the Jaipur Bharatpur route which was published in the Rajasthan Gazelle of 14-12-60. The scheme, however, could not be enforced immediately as the same was under challenge, first before this Court and then before the Supreme Court at the instance of the operators of that route. Eventually with the disposal of the writ petitions and the appeal before the Supreme Court the scheme came into force from 17-4-62. Some of the non-petitioners in the meantime applied for renewal of their permits and were able to obtain them. Subsequently non-petitioners Nos. 3 to 16 applied for grant of Stage Carriage permits on Mandawar-Mahua Karauli Gangapur route and non-petitioners Nos. 17 to 24 applied for grant of permits on Mandawar-Mahua-Karauli-Sir-Mathura route. Their applications were published in the Rajasthan Gazette for inviting objections and the Regional Transport Authority, Jaipur, by its resolution No, 89 (Ex. 1), granted 8 permits on Mandawar Sir-Mathura route. It also granted 14 permits on Mandawar Gangapur route. Against this resolution of the Regional Transport Authority the present petitioners filed a revision application before the State Transport Authority Rajasthan. Jaipur.

The State Transport Authority in its judgment dated 17-6-63 came to the conclusion that the Regional Transport Authority was in error in granting these 22 permits and consequently accepting the revision it quashed the order of the Regional Transport Authority (Ex. 1) Against that judgment of the State Transport Authority the non-petitioners filed two separate writ petitions in this court on the ground that the State Transport Authority had passed this order without giving them a proper opportunity of hearing. Those writ petitions were accepted by this Court by its judgment dated 10-12-63, and it remanded the case to the State Transport Authority with a direction to re-hear the matter after giving proper opportunity of hearing to the respondents. It was also directed by this Court that

the preliminary objections of the respondents should also be heard and decided. After the case was remanded the State Transport Authority re-heard the matter, but this time it dismissed the revision application on two of the preliminary grounds.

The essentials of the decision of the State Transport Authority are contained in the following passage:

'Coming to preliminary objections Nos. 3 and 4, we have gone through the rulings of the Rajasthan High Court and Madras High Court as relied upon by the counsel for the respondents. These rulings are clear enough on the point of maintainability of appeal in the present case The Rajasthan High Court in the case reported in AIR 1955 Raj 19 (20) has held that if an objection has been made by somebody entitled to appeal under Clause (f) of Section 64 of the Motor Vehicles Act it gives right of appeal to others: falling in his line to file appeal under the said clause. In this case one of the operators Narainlal Badri Prashad filed written objections under Section 57. One of the petitioners also filed an appeal but it was later on withdrawn by him The Mysore High Court had held that even oral objections are enough to lay foundation for an appeal under Clause (f). We find that the Regional Transport Authority has mentioned in their resolution that they heard the objections of the petitioners. As such foundation was laid down for filing appeal.

In view of the above discussions, we conclude that there was a right of appeal for the petitioners and if they did not avail themselves of it, they cannot come before this Authority in Revision under Section 64-A in matters in which appeal lay. The preliminary objections 3 & 4, are, therefore upheld and the revision petitions are rejected being not maintainable'

3. Learned counsel for the petitioners, inchallenging this decision of the Stale TransportAuthority, submits that, as no objections werefiled by the petitioners, they could not havefiled an appeal against the resolution of theRegional Transport Authority before the Transport Appellate Authority under Section 64 of theMotor Vehicles Act, hereinafter to be referredas the 'Act' and consequently they could invoke the re visional jurisdiction of the StateTransport Authority under Section 64-A of the Act.Learned counsel for the petitioners further submits that the State

Transport Authority has misdirected itself in applying Dholpur Co-operative Transport and Multi Purpose Union Ltd. v. Appellate Authority Rajasthan, AIR 1955 Raj 19 and in thinking that even a person who had not filed any objection before the Regional Transport Authority could file an appeal to the State Transport Authority under Section 64 of the Act, simply because someone else had filed an objection. It is also pointed out that the State Transport Authority was in error in thinking, on the basis of some observations made by the Mysore High Court which the tribunal failed to point out and none of the counsel could refer to us, that even persons making oral objections before the Regional Transport Authority could maintain an appeal under Section 64 of the Act, even though they had not filed any objection in writing in conformity with the provisions of Section 57 of the Act.

4. The writ petition is opposed by the respondents and it is urged on their behalf that even though some of the reasons given by the State Transport Authority in its judgment may not be supportable, this court should decline to exercise its extraordinary jurisdiction in the matter under Article 226 of the Constitution on the ground that the petitioners had an opportunity of filing objections before the Regional Transport Authority after the applications made by the non-petitioners were published in the gazette and since they themselves did not choose to file any such objections they could not take any advantage of a lapse on their own part. Shri D. P. Gupta, learned counsel for the respondents, had frankly conceded before us that the State Transport Authority was not correct in holding that simply because someone had filed an objection against the grant of permits the petitioners thereby acquired the right to file an appeal. He has also not supported the observation that even a person who had only orally raised any objection at the time of hearing before the Regional Transport Authority would have a right of appeal under Section 64 of the Act. He however, vigorously contended that the State Transport Authority was right in holding that the petitioners had no right to file a revision application before the State Transport Authority. Shri Jain, learned counsel for the petitioners, on the other hand, strenuously contends that inasmuch as the petitioners were not competent to file an appeal before the Transport Appellate Authority under Section 64 of the Act, they were entitled to invoke the jurisdiction of the State Transport Authority under Section 64-A of the Act.

5. Section 64 of the Act runs as under

'Section 64. Any person-

(a) aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him, or

(b) aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or

(c) aggrieved by the refusal to transfer the permit to the person succeeding on the death of the holder of a permit, or

(d) aggrieved by the refusal of the State or a Regional Transport Authority to countersign a permit or by any condition attached to such countersignature, or

(e) aggrieved by the refusal or renewal of a permit, or

(f) being a local authority or police authority or an association which, or a person providing transport facilities who, having opposed the grant of a permit, is aggrieved by the grant thereof or by any condition attached thereto, or

(g) aggrieved by the refusal to grant permission under Sub-section (1) or Sub-section (2) of Section 59, or

(h) aggrieved by a reduction under Sub-section (1A) of S 60 in the number of vehicles or routes or area covered by a permit, or

(f) aggrieved by any other order which may be prescribed. may, within the prescribed time and in the prescribed manner, appeal to the prescribed authority who shall give such person and the original authority an opportunity of being heard'.

6. Under this section the right of appeal is given to any person who is aggrieved on account of the action of the Regional Transport Authority as may fall under any of the sub-clauses of Section 64 of the Act. Since, before the introduction of Section 64-A, the various orders of the Regional Transport Authority that were passed

under Chapter IV of the Act could be challenged only by aggrieved parties under specified conditions, under Section 64 only the legislature had to introduce a new section sometime in 1965, which is Section 64-A, to make provision for examining the validity of the other orders of the Regional Transport Authority at the hands of the State Transport Authority Section 64-A runs as under:

"Section 64-A. The State Transport Authority may either on its own motion or on an application made to it, call for the record of any case in which an order has been made by a Regional Transport Authority and in which no appeal lies, and if it appears to the State Transport Authority that the order made by the Regional Transport Authority is improper or illegal, the State Transport Authority may pass such order in relation to the case as it deems fit:

Provided that the State Transport Authority shall not entertain any application from a person aggrieved by an order of a Regional Transport Authority, unless the application is made within thirty days from the date of the order:

Provided further that the State Transport Authority shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard '

7. In defining the revisional jurisdiction of the State Transport Authority the legislature has imposed a two-fold limitation on the powers of that Authority. In the first place, the re-visional jurisdiction will be exercisable only in those cases where no appeal would be competent under Section 64 of the Act. The second limitation is that, the State Transport Authority will only be entitled to examine the propriety or the legality of the order. In laying down how the State Transport Authority will be exercising its jurisdiction it has, of course, been provided that this jurisdiction may be exercised by the State Transport Authority of its own motion or on an application made by any party. However, the question that has been canvassed before us is whether any party has the right in law to maintain a revision application Though the State Transport Authority may take action also on an application by a party it cannot, by any means, be said that any party as such has the right to invoke the jurisdiction of the authority.

Existence of jurisdiction in the authority is one thing and how that jurisdiction is to be exercised is quite another matter. The exercise of jurisdiction is a matter of judicial discretion and it will be for the revisional authority to see whether it would exercise it of its own motion or on the necessary facts and other matters being brought to its notice by any party. It is true that a party who cannot bring his case under any of the clauses of Section 64 of the Act, will not be competent to maintain an appeal and in a case like the present one the party has to bring its case under Sub-clause (f) of Section 84 of the Act, and in order to entitle itself to file an appeal it should have first filed an objection against the application for grant of permits in accordance with Section 57 of the Act. Therefore, in a case where the party, on account of its own lapse, has not filed any objection then he will not be entitled to maintain an appeal before the Transport Appellate Authority. In such a case to hold that though that party may not have the right of appeal he would still be having a right to maintain a revision application, may lead to an odd result which may not have been intended by legislature.

It will be for the revisional authority to see whether in any case it should exercise its revisional jurisdiction on any application made before it by any party. In a case where a party of his own lapse has not earned the right to file an appeal very exceptional reasons will be required to induce the revisional authority to exercise its discretion in his favour. In a case where the party has chosen to file any objection against the application for permit, it will be a sound exercise of discretion if the revisional authority declines to exercise its jurisdiction under Section 64-A of the Act. Therefore, in our view, the State Transport Authority was not wrong in holding that the petitioners had no right to file a revision application as such, though, as we have already observed some of the reasons given by it are not supportable. However, the learned counsel for the respondents themselves had not supported the reasoning of the State Transport Authority. Thus, in our view, the State Transport Authority has reached the correct conclusion in refusing to exercise its revisional jurisdiction.

8. We may now briefly deal with the case cited before us by Shri Jain. He invited our attention to *Jasram v State Transport Authority*, M. P., Gwalior, AIR 1961 Madh Pra 81. That was a case relating to the variation of the conditions of certain

permits and the learned Judges observed as follows:

'Where the third person had made his representation against the proposed variation beyond the prescribed time, he cannot be regarded as having validly opposed the variation. that being so, he was disentitled to appeal under Clause (f) of Section 64 Since he could not appeal, the revision filed by him under Section 64-A of the Act against the order of the Regional Transport Authority permitting the variation, is not incompetent '

9. Now, the revision may not have been incompetent, but that did not mean that the party had a right to file the revision. In that case the State Transport Authority had dealt with a resolution of the lower authority which was in excess of its jurisdiction. That may be an exceptional case where on account of lack of jurisdiction in the Regional Authority the State Transport Authority thought fit to interfere even at the instance of a party who could not appeal on account of its failure to file objections. This derision, to our mind, is not quite helpful to the learned counsel and it does not go against the view that we have been persuaded to take in the case.

10. In *M. Basha v. C. Sultan Beig*, AIR 1959 Mys 17 the question that was canvassed before the learned Judges was whether the litigant had an alternative remedy of filing a revision In dealing with the question whether there was any right in a party to file a revision before the State Transport Authority, the learned Judges observed as follows:

'Section 64-A of the Motor Vehicles Act only deals with the power of the State Transport Authority to interfere with an order of the Regional Transport Authority and not with the rights of a party who is affected by the said order. A party may approach the State Transport Authority but he has no right to do so not has he & right to a remedy because the State Transport Authority may refuse a remedy under this section '

11. These observations lend ample support to our view that it is not the right of any party to invoke the jurisdiction of the State Transport Authority under Section 64-A of the Act.

12. In view of what we have observed above, we do not find any substance in the writ petition which we hereby dismiss, but in the circumstances of the case we leave the parties to bear their own costs.

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