

**Sayed Ahemed Vs. State**

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**Court :** Rajasthan

**Decided On :** Feb-13-1975

**Reported in :** 1975WLN(UC)58

**Judge :** M.L. Joshi, J.

**Appeal No. :** S.B. Civil Writ Petition Nos. 2339 and 2822 of 1974

**Appellant :** Sayed Ahemed

**Respondent :** State

**Disposition :** Petition allowed

**Judgement :**

**M.L. Joshi, J.**

1. These two petitions involve a common question of fact and law and are being disposed of by a common judgment.
2. The facts leading to the writ petitions are not in dispute and may be briefly stated as follows.
3. The writ petitioners held non-temporary stage carriage permits in respect of (Jaipur) Chandpol Jotwara industrial area along with three other permit holders. They submitted their applications for renewal in time. Their application were duty

published and objections were invited. Meanwhile the Rajasthan State Road Transport Corporation, hereinafter called the RSRTC also submitted five applications for the grant of fresh non-temporary permits. The notification shows that the RSRTC was one of the applicants for the grant of fresh permit. The applications for renewal as well as for fresh grant came up for consideration before the R.T.A. in its a meeting dated 22nd June, 1974. The RTA rejected the writ petitioner's applications for renewal and granted permit in favour of the Corporation. The reason given in support of the RTA's order is that in view of the second proviso to Section 58 inserted by the Motor Vehicles (Rajasthan Amendment) Act, 1974 (Act No. 10. 1974) it has been enjoined upon the Transport Authorities to give preference to the Corporation if other conditions are being equal. The RTA made a mention of this amendment and solely on that basis Granted the permits to the Corporation. It did not apply its mind to the words 'other conditions being equal' occurring in the proviso to Section 58 of the Motor Vehicles Act.

4. The writ petitioner being aggrieved by such an order took the matter in appeal before the STAT. The STAT also did not take into account the words 'other conditions being equal' occurring in 2nd proviso to Section 58(2). The STAT first referred to the second proviso to Section 58 of the Act wherein it has been provided that other conditions being equal an application for stage carriage permit by a State Transport Undertaking shall be given preference over all other applications for renewal. Having referred to this proviso the STAT in its latter protion of its judgment while discussing the impact of this proviso simply observed as follows:

As already stated the Motor Vehicles (Rajasthan Amendment) Act, 1974 (Act No. 10 of 1974; has brought about numerous changes in order to speed up nationalisation. One of the important change introduced by the said amendment was in Section 58 by providing the second proviso quoted above. Under the said proviso whenever an application for renewal is to be considered by the authority then an application for permit on behalf of RSRTC shall be given preference over all other applications for renewal.

The STAT having taken notice of the second proviso to Section 58(2) rest contented in upholding the order of the RTA simply on that ground. From the facts narrated above, it will appear that both the Transport Authorities below did not discuss the comparative merits of the rival claimants, nor did it apply its mind to the question whether other conditions referred to in second proviso to Section 58(2) were equal. Both the authorities below are administrative authorities exercising judicial functions and have to decide the matter with objectivity. They, however, did not discuss the relevant considerations set out in Section 47, nor they have even applied its mind in judicial manner. The term 'other conditions being equal' occurring in proviso to Section 58(2) have definitely some significance. It is true that proviso to Section 53(2) do conceded preference in favour of the Corporation but subject to one important condition that other conditions are being equal. Proviso can be invoked in favour of the Corporation if the Transport Authorities apply their judicial mind in the light of relevant considerations set out in Section 47 of the Act. The preference conceded under the said proviso is of course a material and positive factor in favour of the Corporation, but it is not the sole factor. The quasi-judicial bodies are under an obligation to make a reasoned order. By reasoned order I do not mean to say that it should pass an elaborate order as is done in a Court of law. But nevertheless the quasi-judicial body should pass a speaking order giving broad reason so as to convince the person pursuing it that they have exercised their judicial mind. In case the case before me the authorities have not at all adverted to the material considerations germane to Section 47 of the Act, nor they have cared to see the significance of the terms 'other conditions being equal' occurring in second proviso to Section 58 of the Act. Curiously enough, the STAT is rather under a wrong impression that if the Corporation makes an application for grant of permit then the renewal applications are bound to be rejected, To my mind this is not at all a correct interpretation of second proviso to Section 58(2). The quasi-judicial bodies have to decide the matter objectively by applying their mind as to whether in the given case the other conditions are being equal in the light of relevant consideration set out in Section 47 of the Act. Both the authorities below have failed to take into account the consideration and have been simply swayed away by the insertion of proviso to Section 58(2). The approach of the both the authorities below is, therefore, wholly erroneous.

5. In the result, the petitions are accepted. The impugned orders of the STAT and RTA are hereby quashed. The case shall go back to the RAT. Jaipur for fresh decision in the light of the observations made above. The RTA is directed to dispose of the case within three months from the date of the presentation of their certified copy of the judgment of the court by either of the parties. Meanwhile the writ petitioners and Corporation shall ply on the route as hither to before till RTA, Jaipur decides the matter. The parties are left to bear their own costs.

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