

Chandra Shekhar Vs. State and ors.

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Court : Rajasthan

Decided On : Jan-17-2002

Reported in : 2003WLC(Raj)UC64; 2002(3)WLN91

Judge : Bhagwati Prasad, JJ.

Appeal No. : S.B. Civil Writ Petition Nos. 3842 of 2000 and 183 of 2002

Appellant : Chandra Shekhar

Respondent : State and ors.

Disposition : Petition dismissed

Judgement :

Bhagwati Prasad, J.

1. -Heard.

2. The present writ petition has been filed by the petitioners with a prayer that the order of the Transport Appellate Tribunal dated 26.8.2000 be set aside. The Transport Appellate Tribunal by its order impugned has observed that the renewal prayed for by the petitioners cannot be granted and the appeal was dismissed as time barred. The petitioners had permit on Amruka to Pahadi inter-State route with an agreement in between the State of Rajasthan and Haryana. The appeal before the State Transport Appellate Tribunal was rejected as noticed earlier on the

ground of limitation. Subsequent to the filing of the present writ petition, another writ petition has been filed in the name of Chandra Shekhar and Ratan Singh, the same petitioners in the earlier writ petition being S.B. Civil Writ Petition No. 183/2002. This writ petition is also decided by the present decision.

3. In this writ petition, the petitioners have prayed that the agreement in between the State of Rajasthan and Haryana dated 9th July, 1997 as published in Rajasthan Gazette on 15.7.1997 and in Rajasthan Patrika dated 22.7.1997 be quashed, so far as it relate to Amruka to Pahadi inter State route. The argument of the learned Counsel for the petitioners is that in terms of proviso to Sub-section (1) of Section 88 of Motor Vehicles Act, 1988, no counter signatures are necessary, if the renewal of the route is only 16 kms. In this light, the learned Counsel for the petitioners States that no agreement was necessary to be executed and no sealing could be fixed for the route in question. Learned Counsel for the respondents in reply has stated that in Sub-section (5) of Section 88 of Motor Vehicles Act, the line used is 'granted or countersigned'. According to the learned Counsel for the respondents, there can always be an agreement for the grant of permits and there can always be an agreement regarding counter signatures. These two are different expressions. There cannot be read in conjunction and if an agreement has been reached in between two states for a particular route, then, it cannot be said that the states were not competent to enter into an agreement. In this view of the matter, the learned Counsel for the respondents state that the petitioners have no right to get a permit renewed.

4. I have considered the rival submissions. Hon'ble Supreme Court in 'Goverdhan Lal Dhawan v. State of Bihar and Ors.' reported in : AIR 1988 SC1676 , Division Bench decision of this Court in State of Raj. and Anr. v. Gyan Singh and Anr. reported in AIR 2001 Raj. 370 and this Court in 'Zamindara Motor Transport Cooperative Society v. R.T.A. Bikaner and Ors. reported in WLC (Raj.) 1999(1) 348 has held that there can be an inter State agreement which can provide for number of permits on inter State routes and thus, the argument of the learned Counsel for the petitioner is squarely converted by the law laid down by the Hon'ble Supreme Court and Division Bench decision of this Court. The claim raised by the petitioners runs contrary to the law laid down by the Hon'ble

Supreme Court and this Court.

5. It may further be observed that challenge to an agreement which has been published finally stands on a different footing. Before the final publication of the agreement, draft agreement is published. Objections are invited. The petitioner is an existing operator as claimed by him. No objection was raised by the petitioner regarding the draft agreement. He rather ignored the draft publication. He did not feel offended by the provisions which are going to be incorporated in the agreement. Once the petitioner permits finalisation of the agreement, then at a subsequent stage, he cannot be permitted to raise any question regarding the same. The agreement was finalised in 1997. The challenge comes in 2002 which is per se belated beyond comprehension. Hon'ble Supreme Court in *Municipal Corporation of Greater Bombay v. I.D.I. Co. (Pvt.) Ltd.* : AIR 1997 SC482 observed as under:-

If the interested person allows the grass to grow under his feet by allowing the proceedings to go on and reach its terminus in the award and possession is taken in furtherance thereof and vest in the State free from all encumbrances, the slumbered interested person would be told off the gates of the Court that his grievance should not be entertained when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. The High Court, has, no doubt, discretionary power Under Article 226 of the Constitution to quash the notification Under Section 4(1) and Declaration Under Section 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not exercise its power to quash the award which is a material factor to be taken into consideration before exercising the power Under Article 226. The fact that no third party rights were created in the case, is hardly a ground for interference.

Similar view has been reiterated in *State of Rajasthan and others v. D.R. Laxmi and Ors.* : (1996)6SCC445 wherein the Apex Court has held that even the void proceedings need not be set at naught if the party has not approached the Court within reasonable time, as judicial review is not permissible at a belated stage.

6. In Hindustan Petroleum Corporation v. Dolly Das : (1999)4SCC450 , the Apex Court held as under:-

So far as the contention regarding laches of the respondents in filing the writ petition is concerned, delay, by itself, may not defeat the claim for relief unless the position of payment had been so altered which cannot be retracted on account of lapse of time or inaction of the other party. This aspect, being dependent upon the examination of the facts of the case and such a contention not having been raised before the High Court, it would not be appropriate to allow the appellants to raise such a contention for the first time before us. Besides, where the mode is that the period for which the option of renewal has been exercised, has not come to an end. During the subsistence of such a period, certainly the respondents could make a complaint that such exercise of option was not available to the appellants, and therefore, the jurisdiction of the High Court could be invoked even at a later stage. Further, the appellants are not put to undue hardship in any manner by reason of this delay in approaching the High Court for a relief.

7. In view of the above, as the petitioner has not approached the Court within reasonable time and allowed the completion of proceedings, the petition is liable to be rejected only on the ground of delay.

8. The petition is liable to be dismissed only on the ground of delay in challenging the agreement. Once challenge to the agreement goes, then no renewal can be permitted to the petitioner as his renewal application falls beyond the scope. Thus, his plea has rightly been refused by the Authorities of the Transport Department.

9. With the abovesaid observations, the writ petition stands dismissed.