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Court : Chennai

Decided On : Mar-01-1994

Reported in : AIR1995Mad53

Judge : K.A. Swami, C.J. and ;Somasundaram, J.

Acts : [Motor Vehicles Act, 1939](#) - Sections 68F(1C); [Constitution of India](#) - Article 226

Appeal No. : W.A. No. 355 of 1994

Appellant : M. Krishnan

Respondent : Regional Transport Authority, North Arcot District at Vellore, and Another

Advocate for Pet/Ap. : V.T. Gopalan, Sr. Adv., for ;M/s. Radha Gopalan and ;E. Sasikala, Adv.

Judgement :

ORDER

K. A. Swami, C.J.

1. This appeal is preferred against the order dated 22-2-1994 passed by the learned single Judge in W.P. No. 6151 of 1979. Learned single Judge has rejected the writ petition. Hence, the petitioner has come up in appeal.

2. The petitioner is an operator of a stage carriage service. He obtained a temporary permit under S. 68F(1C) of the [Motor Vehicles Act, 1939](#), as it stood prior to its repeal, as no application was filed by the State Transport Undertaking seeking permit on a route included in the draft scheme from Cuddalore to Vellore via Chengam. The temporary permit issued under S. 68F(1C) of the old Act was for the route Veltor to Chengam, Thus, the entire route for which the temporary permit was granted was covered by the draft scheme, Cuddalore to Vellore via Chengam. However, the said scheme lapsed on 30-6-1990 and, as a result thereof, the permit granted to the appellant must be held to have lapsed because it was a permit issued under S. 68 F(1C) of the old Act, which was to be valid during the subsistence of the scheme and until the State Transport Undertaking applied for the permit on the route included in the scheme. When once the scheme itself lapsed, the very basis for seeking a permit under Section 68F(1C) ceased to exist. However, the appellant appears to have been permitted to continue the said permit. Subsequently, another scheme came to be published covering the route Vellor to Nanjukonda-puram on 27-6-1990. According to this scheme, the route covered by the permit granted to the appellant under Section 68F(1C) overlapped an extent of 13 Kms. Consequently, the Transport Authorities have asked the appellant to stop the operation of the stage carriage service on the ground that the permit has lapsed and the route overlaps to an extent of 13 Kms. of the Vellore-Nanjukondapuram route included in the draft scheme. It is under those circumstances, the petitioner sought for issue of a writ in the nature of prohibition, prohibiting the respondents from stopping the petitioner's stage carriage bearing registration No. TNJ 7 plying on the route Vellore to Chengam via. Kannamangalam, Polur, Kalasapakham, Poondi, Vilvarani and Pudupalayam. Learned single Judge has rejected the writ petition, holding that the temporary permit was granted to the appellant/petitioner, pending finalisation of the draft scheme and on the failure of the State Transport Undertaking apply for a temporary permit, and as the scheme was no longer available as it had lapsed, the very ground on which the permit was issued ceased to exist. Therefore, the relief

sought for by the petitioner could not be granted. We are of the view that the learned single Judge is right in holding that the writ of prohibition cannot be issued to the respondents in the facts and circumstances of this case, because the temporary permit issued under S. 68F(1C) of the old Motor Vehicles Act, on the basis of which the petitioner was operating the stage carriage service, ceased to be operative, and. valid inasmuch as the scheme itself had lapsed. Hence, if the relief sought for by the appellant/petitioner is granted, it would not be in accordance with law. Therefore, we see no reason to admit the appeal (sic) is rejected.

It is submitted that the travelling public would be put to great inconvenience because the stage carriage was being operated for more than a decade and the application filed by the petitioner/appellant for grant of stage carriage permit is pending and the Regional Transport Authority North Arcot-Ambedkar District is not considering the same. Keeping in view the interest and convenience of the travelling public, we direct the Regional Transport Authority, North Arcot Ambedkar District, to consider the application filed by the petitioner for grant of stage carriage permit in accordance with law, within a period of three months from today. A copy of this order shall be sent to the Regional Transport Authority North Arcot-Ambedkar District, for compliance.

3. Order accordingly.