

In Re: R. Krishnaswami Reddiar

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Court : Chennai

Decided On : Jan-29-1951

Reported in : AIR1951Mad852a; (1951)1MLJ673

Judge : Rajamannar, C.J. and ;Somasundaram, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 556

Appeal No. : Civil Misc. Petn. No. 1656 of 1951

Appellant : In Re: R. Krishnaswami Reddiar

Advocate for Pet/Ap. : M.K. Nambiar and ;N.G. Krishna Aiyangar, Advs.

Disposition : Application dismissed

Judgement :

Rajamannab, C.J.

1. This is an appln. to quash the proceedings of the Regional Transport Authority, Tiruchirapalli, dated 24-10-1950 & the proceedings of the Central Road Traffic Board, Madras, dated 20-11-1950. The petnr. was granted a permit to run a bus on the route Turaiyur to Mohanur via Musiri & Kattuputtur. That route lies partly in the Tiruchirapalli district & partly in the Salem district. As provided by Section 63, Motor Vehicles Act, the permit was granted by the Tiruchirapalli Regional Transport Authority & it was counter-signed by the Regional Transport Authority,

Salem, for that portion of the route lying in the Salem District. The permit granted to the petnr. was suspended for one month by the Regional Transport Authority, Tiruchirapalli, on 24-10-1950 on the ground that there had been an overload on the bus on 9-9-1950. It is not denied that the petnr. was given notice of the ground on which this suspension was ordered, & according to the affidavit, he was also given an opportunity of appearing before the Authority along with his advocate.

2. The first contention of the petnr's counsel is that proceedings of the Regional Transport Authority were vitiated by the presence of the Secretary of that Authority at the meeting of the Board, because it was the Secretary who had put up a note that action might be taken against the petnr. & that it was the Secretary who purported to have found out this overloading. The Chairman asked the secretary whether the checking of the bus had been done & the overloading detected by himself & the Secretary replied in the affirmative. The Chairman thereupon announced the decision of the Board that the permit would be suspended for one month. It was strongly urged by Mr, Nambiar, the learned counsel for the petnr., that this procedure was opposed to well known principles of natural justice & the presence of the secretary & his participation in the proceedings of the Regional Transport Authority would give an impression that justice was not being done. Reliances was placed on the ruling of the Ct. of Appeal in 'Cooper v. Wilson', 1937 2 K B 309. In that case the Chief Constable of Liverpool under powers granted to him purported to dismiss a sergeant In the Liverpool police force. Against his decision of dismissal, there was an appeal to the Watch Committee of Liverpool. At the meeting of the Watch Committee before whom the appeal was heard, the Chief Constable was present during the deliberations. The Watch Committee eventually dismissed the appeal. The learned Judges held that the proceedings before the Watch Committee were contrary to natural Justice owing to the presence of the Chief Constable during the Committee's deliberation on the appeal. Grear L. J. pointed out that the Chief Constable whose decision was being attacked & who was therefore interested in the result of the appeal had treated himself as one of the parties in the proceedings before the committee & his presence on the Bench when the Watch Committee were deliberating would certainly give room for complaint by the dismissed sergeant who was the applt. We fail to see how this decision has any bearing on what has happened in the

present case. In this case the Secretary was a subordinate officer of the Regional Transport Authority & was bound to be present at the meeting of the Board & to put up the papers concerning the business to be transacted at the meeting. It was also incumbent on him to carry out the decisions & the resolutions of the Board. No doubt it was on his information that proceedings were commenced against the petnr. & the decision of the Regional Transport Authority was based on his testimony. The position of the Secretary was, therefore, that of a prosecution witness, so to say. It is impossible to hold that the verdict of a Mag. is contrary to natural justice because of the presence of the main prosecution witness in the Ct., even if that prosecution witness happens to be his own clerk. The Secretary was practically the clerk & executive officer of the Transport Authority, but in the petnr's case he also happened to be a witness. There was no decision of his which was the subject matter of an appeal before the Transport authority; nor had the Secretary any personal interest in the matter. For these reasons, we do not think even the other decisions to which Mr. Nambiar drew our attention apply to this case.

3. It was next contended that as the route lies over two districts (Tiruchirapalli & Salem) the Regional Transport Authority, Tiruchirapalli could not himself cancel the permit in so far as that portion of the route in Salem district was concerned. Section 63, Motor Vehicles Act, provides for the counter signature of a permit by the Regional Transport Authority of a region other than the region 'in respect of which the Regional Transport Authority granting the permit had jurisdiction. It is obvious that what the Regional Transport Authority of Tiruchirapalli can suspend or cancel is the permit which he has granted. Whether as a consequence of this, the counter signature of the permit by the Regional Transport Authority, Salem must also be deemed to have been suspended or cancelled is not for us to say on this appln. which seeks only to quash the order of the Regional Transport Authority, Tiruchirapalli.

4. The appln. is, therefore, dismissed