

Lakshmi Chand Vs Regional Transport Authority, Agra and Another

Court: Allahabad High Court

Date of Decision: Feb. 25, 1959

Acts Referred: Constitution of India, 1950 " Article 226
Motor Vehicles Act, 1939 " Section 47(1), 48

Citation: AIR 1959 All 782

Hon'ble Judges: O.H. Mootham, C.J; Raghubar Dayal, J

Bench: Division Bench

Advocate: S.C. Khare, for the Appellant; Standing Counsel, for the Respondent

Final Decision: Dismissed

Judgement

O.H. Mootham, C.J.

This is an appeal from an order of Mr. Justice Tandon dated 8-8-1958. The appellant is the holder of a stage

carnage permit under which he is entitled to ply a stage carriage on the Mathura-Etah route. That route is about 72 miles long and in 1947 the

number of stage carriages which were permitted to ply on it was four. In 1947 a decision was taken by the Regional Transport Authority to allow

nine stage carriages on this route, but it appears that in fact permits were granted only to seven. Then by a resolution dated 6-12-1954 the

Regional Transport Authority, Agra, decided to increase the number of stage carriages permitted to ply on this route to eleven. Nothing however

was done to implement this resolution until 29-12-1956, when the Regional Transport Authority invited applications for four new stage carriage

permits, the granting of which would bring the total number of stage carriages to eleven. This invitation was published in the U. P. Gazette on 5-1-

1957.

2. The appellant then filed a petition in this Court under Art. 226 of the Constitution in which the principal relief sought was the issue of writ of

mandamus directing the respondents, who were the Regional Transport Authority, Agra, and the State Transport Authority, Lucknow, not to

consider the grant of additional permits on the Mathura-Etah route or to take any further proceedings on the basis of the notice published in the

Gazette on 5-1-1957. This petition was dismissed by the order dated 8-8-1958, and the appellant now appeals.

3. The appellant's contention is that the Regional Transport Authority had no power to sanction any increase in the number of stage carriages

permitted to ply on the Mathura-Etah route without first calling for and thereafter considering such representations as might be made to it by

persons who were already providing passenger transport facilities on or near that route. It is common ground that no such opportunity was given to

the appellant on whose behalf it is argued that in such circumstances the Regional Transport Authority was not entitled in law to grant any

additional permits. That is the only point which is raised in this appeal.

4. Section 48 of the Indian Motor Vehicles Act, prior to its amendment by Act 100 of 1956, provided that:

48. A Regional Transport Authority may, after consideration of the matters set forth in Sub-section (1) of Section 47, --

(a) limit the number of stage carriages or stage carriages of any special type for which stage carriage permits may be granted in the region or on

any specified route within the region;

It was by virtue of this provision that the Regional Transport Authority decided on 6-12-1954, to increase the number of stage carriage permits to

eleven. Sub-section (1) of Section 47 reads thus ;

47 (1) A Regional Transport Authority shall, in deciding whether to grant or refuse a stage carriage permit, have regard to the following matters,

namely :

(a) the interest of the public generally;

(b) the advantages to the public of the service to be provided, including the saving of time likely to be effected thereby and any convenience arising

from journeys not being broken;

(c) the adequacy of existing road passenger transport services between the places to be served, the fares charged by those services and the effect

upon those services of the service proposed;

(d) the benefit to any particular locality or localities likely to be afforded by the service;

(e) the operation by the applicant of other transport services and in particular of unremunerative services in conjunction with remunerative services;

and

(f) the condition of the roads included in the proposed route or routes;

and shall also take into consideration any representations made by persons already providing road transport facilities along or near the proposed

route or routes or by any local authority or police authority within whose jurisdiction any part of the proposed route or routes lies or by any

association interested in the "provision of road transport facilities.

The appellant contended before the learned Judge, as he has contended before us, that ""the matters set forth in Sub-section (1) of Section 47

which by Section 48 a Regional Transport Authority is required to consider before taking action under that section include not only the specific

matters mentioned in clauses (a) to (f) of Sub-section (1) of Section 47, but also the representations for which provision is made in the second part

of that sub-section. The learned judge rejected this contention and, with respect, we think that he was right in doing so.

5. A perusal of Sub-section (1) of Section 47 makes it clear in our opinion that the matters which the Regional Transport Authority must take into

consideration are the specific matters referred to in clauses (a) to (f). The second part of Sub-section (1) is in the nature of a direction to the

Regional Transport Authority that it must in addition to having regard to the matters referred to in clauses (a) to (f), take into consideration such

representations as are therein referred to. Such representations are not in our opinion included in the phrase ""matters set forth in Sub-section (1)

which, embraces only the matters mentioned in clauses (a) to (f).

6. The fact that a decision may have been taken by the Regional Transport Authority to increase the number of stage carriages permitted to ply on

a particular route will not affect the interests of any bus operator until steps are taken to put that decision into effect. The first step to be taken, and

the step which was taken in the present case by the Regional Transport Authority, Agra, on 29-12-1956, is to invite application for the additional

permits the grant of which has been sanctioned. Section 47 (1) of the Act however specifically provides that the Regional Transport Authority

must, in deciding whether to grant or to refuse an application made for any stage carriage permit, take into account not only the specific matters

referred to in clauses (a) to (f), but also the representations made by other persons providing road transport facilities on the route.

It is clear therefore that as soon as the Regional Transport. Authority takes up the question whether it should grant a permit to a person who has

applied for it pursuant to the notice which was published on 5-1-1957, the appellant will be entitled to make a representation against the grant of

such a permit, and he may do so on the ground inter alia that the existing road passenger service between Mathura and Etah is already adequate

and that it is not in the interest of public that any further permit should be issued. We do not think that it could have been the intention of the

Legislature that a person in the position of the appellant should have the opportunity of making what would be in substance the same representation

twice, namely prior to the decision being taken to increase the number of permits and again when the question of the grant of a particular permit is

being considered. This is the view which was taken by the learned Judge and also by Mr. Justice Jagdish Sahai in Brijlal Misra and Another Vs.

The Regional Transport Authority, Kanpur, .

7. We are of opinion that this appeal fails and it is accordingly dismissed with costs.