

(1980) 05 GAU CK 0002

Gauhati High Court

Case No: Civil Rule No. 82 of 1980

Jamini Mohan Das

APPELLANT

Vs

Niranjan Das and Others

RESPONDENT

Date of Decision: May 8, 1980

Acts Referred:

- Motor Vehicles Act, 1939 - Section 134(1)(A), 48

Citation: AIR 1980 Guw 76

Hon'ble Judges: K.M. Lahiri, J

Bench: Single Bench

Advocate: B.K. Das and B. Banerjee, for the Appellant; Government Advocate, Assam, S.N. Bhuyan, A.K. Bardoloi, D.P. Chaliha, B.D. Agarwal and B.C. Dutta, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K. Lahiri, J.

The petitioner ran neck to neck and lost it by a photo-finish, to get a periodic transport permit. The findings of the appellate authority slightly tilted in favour of Respondent No. 1. It shows that the petitioner is also not an unfit person to get a permit. However, the quota of permits being fixed the petitioner cannot be accommodated although it cannot be said that he is not a deserving person to get a permit in future. In short, these are the contentions of the learned counsel for the petitioner to which I entirely agree.

2. The main grievance of the petitioner is that for a mistake or error of judgment of the Regional Transport Authority the petitioner has suffered a great set back. He purchased vehicle worth about Rupees 1 lakh, placed it on road, but ultimately lost in the appellate tribunal.

3. Similar sad incidents are on the rise in the field of allotment of permits and in particular by the State Transport Appellate Tribunals in Assam.

4. Before considering the question of grant of permits, the Regional Transport Authority should very seriously exercise their minds as to the relevant materials necessary to grant permit. They should very carefully and diligently examine and reflect the respective merits and demerits of the applicants. If these are not done and a hasty order is made by Regional Transport Authority and a person obtains a permit for the first time and on the strength thereof he purchases a valuable property worth a lakh and then fails in appeal, the person sustains a perilous and crippling shock and loss. Hence, allotment of such permits calls for utmost exercise and consideration by the Regional Transport Authorities, while granting permits to persons having no vehicle. Once a permit has been granted and the permit holder purchases a new vehicle, the appellate authority should very carefully consider this fact very minutely. Other things being near equal, allocation of his permit should not be disturbed by the Appellate Authority. The appellate Authority should not direct new permits during the pendency of an appeal. I have held in a recent decision that the appellate authority has no power to grant any permit in favour of an appellant whose application for grant of temporary permit has been rejected by the Regional Transport Authority. In my opinion, the same principle "proprio vigore" applies in the case of periodic permit, even if his case falls u/s 134(1)(A) of the Motor Vehicles Act, 1939, unless there are some compelling reasons. This is another reason why Parliament did not authorise the appellate authority to grant permit during the pendency of an appeal. If an appellant is granted a permit to run a vehicle during the pendency of an appeal and on the strength thereof he purchases a valuable vehicle worth well over a lakh and thereafter fails in appeal, it will result in perilous loss to him apart from mental shock. The valuable vehicle will remain idle without any use as without some sort of permit no transport vehicle can be profitably put on the road.

5. In the instant case, the petitioner for no fault of his, is prejudiced and adversely affected by turn of events. The none-too-happy order of the Regional Transport Authority has been rightly set aside by the State Transport Appellate Tribunal, Gauhati, but the bus of the petitioner is on the jacks or idling inside a garage. A huge capital is blocked. It is too much a stress and strain on a common Indian. I was tempted to quash the order of the Appellate Tribunal but the resultant effect would cause similar hardship to Respondent No. 1 as he has purchased a similar vehicle on the authority of the appellate order.

6. It has been rightly contended by the petitioner that the present precarious condition of the petitioner is the indirect consequence of an irregular order rendered by the Regional Transport Authority. Now, it is the turn of the Regional Transport Authority to rectify its own error by way of making some provision so that the vehicle can be used or put on any route for gainful purposes. I feel that it is the

prime obligation of the Regional Transport Authority to find out ways and means to allot necessary permit, periodic or temporary, to the petitioner and/or his son, who is stated to be a competent motor driver. The permit may be allotted in any other nearby route as well.

7. As the learned counsel for the petitioner has very rightly not contested the decision on any other ground, I propose not to saddle the petitioner with any cost.

8. With the above observations. I dismiss the application. The Rule issued is discharged. There will be no order as to costs.

9. Let a copy of this order be sent to the Regional Transport Authority, Nowgong for doing the needful, as prayed for by the learned counsel for the petitioner.