

(1989) 07 GAU CK 0005

Gauhati High Court

Case No: Civil Rule No. 909 of 1982

Regional Transport Authority,
Gauhati and Another

APPELLANT

Vs

Gauhati Transport Association
and Another

RESPONDENT

Date of Decision: July 18, 1989

Acts Referred:

- Constitution of India, 1950 - Article 226
- Motor Vehicles Act, 1939 - Section 64A

Citation: AIR 1991 Guw 70

Hon'ble Judges: W.A. Shishak, J; Manisana, J

Bench: Division Bench

Advocate: B.P. Bora, for the Appellant; P.G. Barua, D. Goswami and H.R., for the Respondent

Final Decision: Dismissed

Judgement

Manisana, J.

In this writ application, the Regional State Transport Authority Gauhati and its Secretary have challenged an order of the State Transport Appellate Tribunal Assam at Gauhati made an 5-2-1982 in Appeal No. 49 of 1981 quashing the "additional permit conditions" in respect of the State Carriage permits imposed by the Regional Transport Authority.

2. The decision of the Regional Transport Authority Gauhati is as follows :

"The Regional Transport Authority on its meeting held on 28-1-81, decided to impose some additional permit conditions under Sections 48 and 51 of M. V. Act, 1939 (as amended up to date) in the interest of public service and it will be effective from the date of issue of this letter.

CONDITIONS

i) The vehicle shall not be withdrawn from operation without prior permission of the Chairman of the R.T.A.

ii) to v) xxx xxx xxx xxx"

It may be noted that we are required to consider condition-I only.

3. The Appellate Tribunal in exercise of its powers u/s 64-A of the Motor Vehicles Act, for short the "MV Act", quashed the condition No. I aforesaid on the ground that if the condition is allowed to sustain, in no circumstances the permit holders will be entitled to keep their vehicle off the road even for a single day without prior permission of the Chairman of the RTA and that it is in flagrant violation of Rule 109 of the Rules framed under the M. V. Act.

4. Mr. B. P. Bora, the learned counsel for the petitioners, has contended that the impugned order of the Appellate Tribunal is vitiated by bias. The submission of the learned counsel is that the Appellate Tribunal has held that the petition filed by the respondents was barred by limitation and there was no sufficient ground for condonation of delay in filing the petition. But the Appellate Tribunal exercised its revisional jurisdiction u/s 64-A on its own motion. Therefore, the impugned order is vitiated by bias.

5. u/s 64-A, the Appellate Tribunal may, either on its own motion or on an application made to it, decide whether the order of the Regional Transport Authority is illegal or improper.

6. It is settled law that the High Court can quash the order of the Appellate Tribunal if it is vitiated by bias. But the High Court shall not quash the order merely because, in the opinion of the High Court, the view taken by the Appellate Tribunal was wrong (see Raman and Raman Ltd. Vs. The State of Madras and Another,

7. The petition filed by the respondents although was barred by limitation, it could be used by the Appellate Tribunal for drawing the attention of the Appellate Tribunal and the Appellate Tribunal may act on the information furnished, or on the facts stated in the application suo motu. In other words, the petition filed by the respondents was merely for drawing the attention of the Appellate Tribunal and it was the duty of the Appellate Tribunal to take suitable action on the application. In this view of the matter, we are of the opinion that there was no bias.

8. One of the grounds of allowing the appeal by the Appellate Tribunal is that the condition would cause hardship to the permit holders. Even if we like to come to a different conclusion, it cannot be a ground for quashing the order in view of the discussion above.

9. As regards the violation of Rule 109, we keep the matter open as the petition can be disposed of on the ground, as already stated.

10. For the foregoing reasons, the petition is dismissed. No costs.

W.A. Shishak, J.

11. I agree.