

(2006) 11 KAR CK 0109
Karnataka High Court
Case No: W.F. No. 12230 of 2006

Sri T. Rajagopal

APPELLANT

Vs

The Regional
Transport Authority
Bangalore Urban and
The Additional
Secretary and The
Regional Transport
Authority

RESPONDENT

Date of Decision: Nov. 22, 2006

Acts Referred:

- Karnataka Motor Vehicles Rules, 1989 - Rule 127, 127 (1)

Citation: AIR 2007 Kar 103 : (2007) 2 KarLJ 137

Hon'ble Judges: B.S. Patil, J

Bench: Single Bench

Advocate: B.R. Sundararaja Gupta, for the Appellant; Sathish R. Girji, HCGP, for R-1, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

B.S. Patil, J.

Petitioner is before this Court calling in question the order dated 10.8.10.06 passed by the Karnataka State Transport Appellate Tribunal whereby the revision petition is filed challenging the resolution passed by the Regional Transport Authority, Bangalore South, Bangalore, is dismissed.

2. As per the impugned resolution, the 1st respondent has resolved not to grant permission for exhibiting any mobile advertisements on the transport vehicles.

3. Learned Counsel for the petitioner strongly contends that the action taken by the 1st respondent is without jurisdiction., illegal, arbitrary and discriminatory. He submits that the respondent authority has acted in an arbitrary manner by imposing a blanket restriction for exhibiting commercial advertisements on the transport vehicles. He further contends that the transport vehicles owned by the K.S.R.T.C and other private services are still exhibiting such advertisements which amounts to hostile discrimination against the petitioner.

4. Learned Government Pleader appearing for the respondents submits that keeping in mind the public safety and in order to ensure that the drivers of the other vehicles on the road are not disturbed and distracted by the advertisements exhibited on the vehicles, the authorities have taken this decision by resorting to the provisions contained under Rule 127(1) of the Karnataka Motor Vehicles Rules, 1989 (hereinafter referred to as the "KMV Rules"). He further submits that as is clear from the impugned resolution what is done is only to revoke the earlier decision that was taken during the year 2002-03 providing for such advertisements that could be exhibited on the vehicles with prior permission of the authority by paying necessary fees.

5. Having heard the learned Counsel for the parties and on perusal of the materials on record, the question that arises for consideration is:

Whether the impugned action or the 1st respondent in prohibiting the exhibition of advertisements and writings on the Transport vehicles is illegal being arbitrary or without jurisdiction

6. It is necessary to refer to the relevant rule viz., Rule 127(1) at the KMV Rules, 1989. The said Rule reads as follows:

Rule 127: Prohibition of painting or marking, etc., (1) No advertising device, figure or writing shall be exhibited on any transport vehicle, save as may be specified by the Regional Transport Authority by general or special order

7. A perusal of the Rule makes it clear that there is a prohibition for a transport vehicle to exhibit any advertising device, figure or writing. However, the authorities are empowered to grant permission either by issuing general or special orders. In fact, pursuant to the said power conferred on the authority, in the year 2002-03 the authority permitted the exhibition of such advertisements on the transport vehicles with prior permission after paying the prescribed fees. Now, by the impugned resolution the authority has resolved that no such permission will be given in the interest of road safety and in public interest.

8. As is clear from the impugned resolution, the authorities have kept in mind the fact that such advertisements carried on the transport vehicles lend to divert or distract the attention of the drivers of the other vehicles which may endanger the safety on the road. It cannot be said that this reason assigned for taking such an

action is unreasonable or arbitrary. In the present circumstances/ road safety has become a prime concern of the authorities. The initiation of such action, that too, pursuant to the provisions contained under Rule 127 of the KMV Rules cannot be characterised as arbitrary or unreasonable. This Court will not sit in judgment over the wisdom of the authorities in taking such a decision. Petitioner cannot claim any vested right to exhibit such advertisements on the transport vehicles. Therefore, the contention urged by the learned Counsel for the petitioner that the action is without jurisdiction and is arbitrary and unreasonable cannot be accepted.

9. The power and the jurisdiction to take such action is traceable to Rule 127(1) of KMV Rules. In fact, there is no right in the owners of the transport vehicle to exhibit such advertisements as there is a prohibition under Rule 127(1) of the KMV Rules. It is only by the permission of the authorities that any such exhibition can be allowed. When the authorities decided that such permission cannot be given in the interest of the road safety of the public, the same cannot be found fault with.

10. As regards the point of discrimination urged by the learned Counsel for the petitioner, it has to be stated that the Tribunal has rightly come to the conclusion that no material had been produced to show that similarly placed persons have been permitted by the authorities to carry on exhibition of advertisements on their transport vehicles. A perusal of the resolution discloses that it is made applicable uniformly even to those vehicles to which permission has already been granted, after the expiry of the period for which the permission is granted. They cannot continue to exhibit the advertisement devices or writings once their license expires.

In that view of the matter, the grievance made by the petitioner cannot be entertained. Therefore, the writ petition, being devoid of merits, is dismissed. No costs.