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(2004) 08 CAL CK 0042

Calcutta High Court

Case No: Writ Petition No. 148 of 2004

Kalpana Travels and Another	APPELLANT
Vs	
The Union of India (UOI) and Others	RESPONDENT

Date of Decision: Aug. 12, 2004

Acts Referred:

- Motor Vehicles Act, 1988 - Section 86

Citation: AIR 2005 Cal 73

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: H.R. Bahadur and Krishna Rao, for the Appellant;R.S. Saroop and Jyothi Chatwal, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Jayanta Kumar Biswas, J.
The writ petitioners are aggrieved by the decision dated July 28, 2004 (Annexure P-14) given by the Chairman of the State Transport Authority, the Andaman and Nicobar Islands, Port Blair.

2. By the impugned decision the Chairman suspended the first petitioner''s bus route permit for a period of six months; and the order of suspension has been issued in exercise of power stated to be conferred on him by Section 86 of the Motor Vehicles Act, 1988.

3. There is no dispute that the first petitioner''s stage carriage permit, issued on November 12, 2003, was to remain valid till December 31, 2004, and it was issued by the

State Transport Authority.

4. It appears from the impugned decision that certain villagers of Ranchi Basthi, located by the side of the route meant for the first petitioner"s bus, submitted written complaints to the respondent authority, and such complaints were submitted through lawyers. It further appears that on the basis of such complaints, after giving an opportunity of hearing to the first petitioner, the Chairman took the impugned decision.

5. It is apparent on the face of the impugned decision that before taking the decision to suspend the first petitioner"s route permit, the competent authority did not make any independent enquiry for ascertaining the veracity of the allegations contained in the written complaints. The allegations made in the written complaints were taken at their face value, and admittedly without examining any of the complainants.

6. In my considered view, the procedure adopted by the Chairman of the State Transport Authority does not satisfy the basic requirements of rule of law that put an obligation on him to act fairly, and without leaving any scope to describe his action as arbitrary. Merely on the basis of complaints made by some persons, the Chairman, if he was the competent authority, should not have exercised the power u/s 86, and before exercising the power he ought to have ascertained the correctness of the allegations made; and for the purpose he should have either made an independent enquiry or examined the complainants or some of them, and the first petitioner should have been given opportunity to lead evidence in support of its case.

7. For the above reasons, the impugned decision cannot be sustained, and I am of the view that for the purpose of setting it aside there is no necessity to call upon the respondents to file opposition to the writ petition, as it must, if it can, stand on its own, and without being supplemented by reasons to be supplied in the opposition.

8. The writ petition is accordingly allowed. The impugned decision dated July 28, 2004 is hereby set aside.

9. This order shall not prevent the competent authority from proceeding afresh in the matter in accordance with law and the principles of natural justice. If the allegations made against the first petitioner are established in an appropriate enquiry, the competent authority will be free to take necessary decisions in accordance with law.

10. In the facts and circumstances of the case, I am not inclined to make any order for costs in favour of the petitioners. Hence there will be no order for costs.

11. Since the respondents have not been given opportunity to file oppositions, allegations, if any, made in the writ petition shall not be deemed to be admitted by them.

12. Xerox copies of this judgment and order duly countersigned by the Assistant Registrar (Court) shall be supplied to the learned advocates for the parties on usual undertakings.

13. Certified xerox copies of this judgment and order shall also be supplied to the parties, if applied for.