

SUREME COURT OF INDIA

P. Madurai Pillai

Vs.

G. Aiyalu Naidu

(Sikri, Bachawat and Hegde JJ.)

13.02.1969

JUDGMENT

BACHAWAT, J.

1. Twenty-four applicants-applied for the stage carriage permit on the route Salem to Vembadithalani. On January 19, 1958, the Regional Transport Authority, Salem, selected P. Madurai Pillai and rejected the other applications. Seven applicants filed appeals against the order. On October 8, 1952 the Appellate Tribunal set aside the order and directed that the permit be given to G. Aiyalu Naidu. P. Madurai Pillai filed a writ petition in the Madras High; Court for quashing the order of the Appellate Tribunal. The Learned Single Judge dismissed the application. P. Madurai Pillai tiled an appeal against the order. During the pendency of the appeal. P. Madurai Pillai and G. Aiyalu Naidu were permitted to ply their vehicles under interim orders of stay. G. Aiyalu Naidu's vehicle was seized by his financiers and he could not continue the service. As he could not produce the vehicle the Regional Transport Authority refused to renew his permit. When the writ appeal came up for hearing before the Divisional Bench it dismissed the appeal as infructuous. They observed : "There is a vacancy now with regard to the permit, and it is open to the appellant to contend before the concerned authorities that he is entitled to the gran; c: the permit." Thereafter, P. Madurai Pillai died and his legal representatives have filed the present appeal after obtaining special leave.

2. In our opinion, the High Court was in error in holding that the writ appeal became infructuous. The legality of the order of the appellate Tribunal was under challenge in the writ appeal. The appellant was entitled to press his appeal and to contend that the Regional Transport Authority rightly granted the permit to him. His right of appeal was not taken away by the fact that during the pendency of the appeal the respondent forfeited the permit issued to him under the orders of the appellate tribunal. The question in issue in the appeal was whether the permit should have been originally granted to the appellant and not whether he should be selected in the vacancy caused by the forfeiture of the permit issued to the respondent.

3. In the result, the appeal is allowed, the order appealed from is set aside and the writ appeal is remanded to the High Court for disposal on the merits. There will be no order as to costs.

4. C. M. Ps. Nos. 1862/66 and 1334/67 for urging additional grounds are dismissed as withdrawn without prejudice to the right, if any, of the appellants to urge those grounds before the High Court.

