

Ram Sanehi Singh

Vs

Bihar State Road Transport Corpn. and Others

Civil Appeal No. 2426 of 1968

(Shah, J.)

20.08.1970

JUDGMENT

SHAH, J. -

1. By a notification, dated July 8, 1957, the State of Bihar, in exercise of the powers under sub-section (2) of Section 68-D of the Motor Vehicles Act approved a notified route "Patna-Nawadah" by the scheme all services plying on the route including the "service" of the appellant thereof were notified. The Nawadah-Patna route is in the form of a rightangle the base being Nawadah, Bihar Shariff and Bakhtiarpur and the vertical side being Bakhtiarpur-Fatwah-Patna. The appellant was plying under a permit issued to him, under the Motor Vehicles Act, 1939, even after the notified scheme was framed, stage carriages along the route Bihar Shariff-Noorsarai-Chandi-Daniawan-Fatwah. This was not a notified route. The route Bihar Shariff-Bakhtiarpur-Fatwah and Daniawan form roughly a rectangle.

2. The appellant applied for an extension of his route Bihar Shariff-Noorsarai-Chandi-Daniawan-Fatwah to Agamkuan a place near Patna. For plying along the extension the appellant had to use a stretch of five miles of the notified route from Fatwah to Patna. The Regional Transport Authority granted extension of the route to Agamkuan over ruling the objection of the Bihar State Road Transport Corporation. On extension of the route so granted a part overlapped the notified route from Fatwah to "Patna by pass." In appeal preferred by the Bihar State Road Transport Corporation the State Transport Appellate Authority set aside the order of the Regional Transport Authority. But in exercise of its revisional jurisdiction the Government of Bihar restored the order of the Regional Transport Authority. The State Road Transport Corporation then moved a petition in the High Court of Patna for a writ setting aside the order of the Government of Bihar. The High Court upheld the claim of the State Road Transport Corporation, for in their view grant of a permit for a route part of which overlapped the notified route was not within the competence of the Regional Transport Authority. The appellant has appealed to this Court with special leave.

3. It is true that the extended route partly overlaps the notified route; but there is nothing in the notified scheme which "completely excludes" the other holders of permits issued to them from plying their stage carriages in pursuance of permits issued to them from terminii not on points on the notified route. The scheme merely grants to the State Road Transport Corporation a right to ply their stage carriages from Patna to Nawadah and all services including the service on portions en route are to be run by them. It does not however mean that where under a permit a service is to be run over a route a section of which is to be run over the notified route but without any right to pick up which is to be run over the notified route but without any right to pick up or drop passengers along that notified route, the permit will be deemed to the extent of the section of the notified route

in-effective. The preamble of the scheme undoubtedly refers to the claim made by the State Road Transport Corporation that there should be complete exclusion of other persons from plying buses over the route Patna-Nawadah; but the operative part of the scheme merely provides that in pursuance of Section 68-C of the Motor Vehicles Act, 1939, the scheme prepared by the "Rajya Transport" is published for general information and that the scheme is for plying buses in the route Patna-Nawadah or portions thereof, the Road Transport Corporation being invested with the right to ply its stage carriages on the route and portions thereof. There is however no "complete exclusion" of other operators under that scheme provided the private operators do not pick up or drop passengers on the section of the route which overlaps the notified route.

4. In our judgment the High Court was in error in holding that merely because on a part of the notified route the stage carriages of the appellant will be run for operating his permit without the right to pick up passengers or to drop them, his permit to the extent of the overlapping portion was ineffective.

5. The appeal is therefore allowed and the order passed by the High Court is set aside. The order of the Government of Bihar is restored with costs in this Court and in the High Court.

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