

K. Venkamma

Vs

The Government of Andhra Pradesh and Others

Civil Appeal No. 796 of 1977

(V.R. Krishna Iyer, Jaswant Singh JJ)

14.04.1977

JUDGMENT

KRISHNA IYER, J. -

1. Nationalisation of road transport service is of strategic significance to the country's development and new legal issues arise as private operators, threatened with elimination, battle against such schemes. One such obstacle to the proposed nationalisation of the route Nellore-Ramapuram by the Andhra Pradesh Government is the subject-matter of this appeal by certificate, the High Court having considered it substantial and novel enough to qualify under Article 133 of the Constitution. The point raised is short, the order under appeal brief, but the problem is thorny, with extra-territorial overtones and anomalies in application. Can a route, whose termini lie within the same State but which traverses in its course one or more other States, be designated as inter-State route? If yes, then the exercise in nationalisation proposed by the respondent State cannot materialise into an 'approved scheme' unless, as desiderated by the proviso to Section 68D(3) of the Motor Vehicles Act, 1939 (hereinafter referred to as 'M. V. Act'), the previous approval of the Central Government is secured. Here, admittedly, no such approval has been obtained and the notified route does pass over a short distance of about 8 kms., through Tamil Nadu. The route Nellore-Ramapuram was, according to Counsel for the existing private operator, an inter-State route and non-compliance with Section 68D (3), of M. V. Act aborted the nationalisation. The counter-submission by the State which appealed to the High Court was that the decisive test turned on whether both the termini fell within the same State and it did in this case, and so no question of inter-State route arose.

2. At the first flush, an inter-State route may be of two categories, either connecting two states or traversing two or more states. Black's Legal Dictionary considers inter-State to mean 'Between two or more states; between places or persons in different states; concerning or affecting two or more states politically or territorially'. And that accords with common-sense. The 'termini test' as presented by Counsel for the State, may lead to strange results, fatal to federal ideas. A route which originates in Srinagar, runs down South to Kanya Kumari and rises North to end again in Kashmir, completing a Bharat darshan, cannot sensibly be called an inter-State one, without doing gross violence to language, geography and federalism. And in the absence of a statutory definition of inter-State route, non-violence to English and conformance to commonsense dictate the adoption of the conventional meaning that if a route traverses more than one State it is inter-State.

3. The statutory sensitivity to one State permitting stage carriages from within its territory into another is reflected in Section 63(1) and (4), 68D(3) proviso and Section 20 of the Road Transport Corporation Act, 1950. We are skirting the constitutional question of extra-territorial powers but are confining ourselves to a mere interpretation of the provisions of the Act. 'Route' is defined in

Section 2(28A) to mean a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another. The point is that it is not a notional line 'as the crow flies' but the actual highway as a motor vehicle travels from one terminus to another. The inference is inevitable that a route is transformed into an inter-State one, if the highway it covers passes through more than one State.

4. This easy breakthrough is seemingly obstructed by two rulings of this Court relied on by Counsel for the State, although the High Court while granting the certificate, felt that these decisions did not really cover the case on hand.

5. *Khazan Singh* (1974) 2 SCR 562 : (1974) 1 SCC 295) dealt with a case where the termini of the concerned routes were located in different states and so, by any test, were inter-State routes. There in passing and not as ratio of the case, an observation fell from the Court :

An inter-State route is one of which one of the termini falls in one State and the other in another State.

Undoubtedly, where the termini fall in different states the route is inter-State. But that does not exclude other categories of inter-State routes such as where it crosses a State other than the originating State although gets back into it later. If the territory of more than one State is covered, even if both the termini eventually fall within the same state, the route is inter, not intra-State, Ordinarily - not invariably - the 'two termini' test is a working solution, not an inflexible formula. *Aswathanarayan v. State* (1973) 2 SCR 925 : (1973) 1 SCC 357) had something to say on inter-State route :

An inter-State route is one in which one of termini is in one State and the other in another State. In the present case both the termini are in one State. So it does not deal with inter-State routes at all. It is urged that part of the scheme covers roads which continue beyond the State and connect various points in the State of Mysore with other State. Even if that is so that does not make the scheme one connected with inter-State routes, for a road is different from a route. For example, the Grand Trunk Road runs from Calcutta to Amritsar and passes through many States. But any portion of it within a State or even within a District or a sub-division can be a route for purposes of stage carriages or goods vehicles. That would not make such a route a part of an inter-State route even though it lies on a road which runs through many States. The criterion is to see whether the two termini of the route are in the same State or not. If they are in the same State, the route is not an inter-State route and the proviso to Section 68D(3) would not be applicable. The termini in the present case being within the State of Mysore, the scheme does not deal with inter-State routes at all, and the contention on this head must be rejected.

6. The facts and discussion bear out abundantly that there is nothing in the ruling to suggest that even if a route traverses territory of another State it is none-the-less an intra-State route if the points of beginning and ending fall within one State. It is a fallacy so to construe that decision. What is repelled in that case is the contention that if a highway runs through many States, any portion of that highway which is picked out for running a bus service as a route, should also be deemed to be inter-State for the only reason that such a route (though its entire length falls within a single State) overlaps a road which crosses many States. The very definition of route in Section 2(28-A) is sufficient to extinguish that argument and this Court rightly, if we may so with respect, rejected it.

We cannot confuse between road and route. If the whole of the route lies within a single State it is inter-State and not inter-State, even though the road over which the route lies runs beyond the borders of that single State as national highways do.

7. In Abdul Khader Saheb's case (1973) 2 SCR 925 : (1973) 1 SCC 357) a totally untenable submission was put forward and unhesitatingly turned down that if the nationalised route fell within a single State it should nevertheless be regarded as inter-State route for some mystical reason, viz., that it overlaps a longer route which is admittedly an inter-State route. It is elementary that there can be inter-State routes which run into or through more than one State. A part of that long route may itself be a separate route and may fall wholly within a single State in which case the former may be inter-State while the latter will be an inter-State route. In Abdul Khader's case the Court observed :

The Bellary Scheme provides for nationalisation of an intra-State route and not an inter-State route and the aforesaid provision can have no applicability.

.....If part of the scheme covers routes which continue beyond the State and connect various points in the State of Mysore with those in the other State it does not make the scheme one connected with inter-State route. It is sought to be argued from this that even if Bellary-Chintakunta route which is shown as item 34 in Bellary Scheme has been nationalisation it does not make the scheme one connected with inter-State route. Stress has been laid on the example given that the Grand Trunk Road runs from Calcutta to Amritsar and passes through many States and any portion of it within a State can be a route for purposes of stage carriage but that would not make such a route part of an inter-State route even though it lies on the road which runs through many States.

The above argument can possibly have no validity so far as the present case is concerned. The scheme which was under consideration in the decision relied upon was in respect of an intra-State route. It appears to have been argued that as the scheme was concerned with an inter-State route the approval of the Central Government was necessary as required under the proviso to Section 63D(3) of the Act. This Court held that since the termini were within the State of Mysore the scheme did not deal with an inter-State route at all and no question arose of the applicability of the proviso to Section 68D(3). In the present case there is no scheme of nationalisation relating to the inter-State route from Bellary to Manthralaya. The Bellary Scheme is confined to the intra-State routes, one of those being the Bellary-Chintakunta route. It may be that portion overlaps the inter-State route from Bellary to Manthralaya but so long as it is an intra-State route it could be nationalised by the State of Mysore under the provisions of Section 68D.

No further comment is necessary.

8. We are inclined to the view that the route, passing, as it does, through part of Tamil Nadu, is inter-State. What is the effect of this finding over the scheme of nationalisation? Wholly invalidatory? or else, what? The proviso to Section 68D(3) i.e. Central Government approval has not been complied with and so qua inter-State route the nationalisation does not become effective. Even so, two factors can together salvage this nationalisation scheme.

9. There can be no doubt that the scheme notified by one State will, even in the case of an inter-State route, operate to the extent it lies within that State. Its extra-territorial effect depends on securing of prior Central approval under the proviso to Section 68D(3). That being absent, the

permit granted in one State may still be valid in another State if the condition specified in the second proviso to Section 63(1) is fulfilled. We may as well extract Section 63(1) to that extent relevant.

63. Validation of permits for use outside region in which granted - (1) Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned

* * * *

-Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometers, the permit shall be valid in other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State.

The portion of the route falling outside Andhra Pradesh (both termini being within that State) is admittedly less than 16 km. and so no question of counter-signature by the State Transport Authority or the Regional Transport Authority of Tamil Nadu State arises. The conclusion follows that the portions of the inter-State route which fall within Andhra Pradesh stand nationalised, and consequently excludes private operators. But that strip of the inter-State route which falls within Tamil Nadu cannot be taken to have been nationalised to the exclusion of private operators although the Andhra Pradesh State Transport buses could ply on that strip also in view of the second proviso to Section 63(1) of the M. V. Act.

10. We may point out that Section 20 of the Road Transport Corporations Act (a Central Act) provides for extension of the operation of the road transport service of a corporation of one State to areas within another State. We are not directly concerned with such a scheme as is contemplated by that provision since passage over a neighboring State if the length of such intersection does not exceed 16 km. is saved by the second proviso to Section 63 (1) of the M. V. Act. We, therefore, reach the conclusion that (a) the route Nellore-Ramapuram is an inter-State route; (b) the scheme of nationalisation is operative even in the absence of the previous approval of the Central Government, so far as the portions which fall within Andhra Pradesh are concerned; and (c) the nationalisation cannot become effective over the tiny strip in Tamil Nadu and private operators may still be permitted to ply their services over that strip by the concerned authority within Tamil Nadu State; but (d) the Andhra Pradesh State Transport corporation may ply its buses over the Tamil Nadu enclave even without counter-signature, exemption having been granted in that behalf by the second proviso to Section 63(1) of the M. V. Act. In this view, the appeal must substantially fail except to the extent of the little modification we have indicated which does not profit the appellant. In the circumstances, while dismissing the appeal, we direct the parties to suffer their costs throughout.

</html