

Onkar Singh and Others

Vs

Regional Transport Authority, Agra and Others

Civil Appeal No. 1360 of 1986

(E. S. Venkataramiah, Sabyasachi Mukharji JJ)

23.04.1986

JUDGMENT

VENKATARAMIAH, J. –

1. The appellants are carrying on the business of running stage carriages in the State of Uttar Pradesh. They had obtained temporary permits under Section 68-F(1-C) of the Motor Vehicles Act, 1939 (hereinafter referred to as 'the Act') on the route Somna-Naujheel. They could not obtain permits under Chapter IV of the Act to operate on the said route since a scheme published under Section 68-C of the Act in the year 1960 was in force. It would appear that the Uttar Pradesh State Road Transport Corporation (hereinafter referred to as 'the Corporation') applied for fifteen temporary permits for operating its stage carriages on the route in question and obtained them from the Regional Transport Authority, Agra under Section 68-F(1-A) of the Act as per its order dated January 1, 1984. But the Corporation introduced only five services against fifteen permits. Thus there were ten vacancies. The Regional Transport Authority granted ten temporary permits to ten private operators in those ten vacancies. One Davender Pal Singh who was holding a non-temporary permit issued under Chapter IV of the Act filed a revision petition under Section 64-A of the Act before the State Transport Appellate Tribunal. The petition was dismissed. On account of the pressure of traffic the number of temporary permits was increased to thirty-four. The Corporation was granted these additional permits. But it failed to operate its services under all the permits issued to it. The private operators who wanted to operate the vehicles were not granted temporary permits. The appellants were asked to stop plying their vehicles under the temporary permits obtained by them. Aggrieved by the stoppage of the running of their vehicles, they filed a writ petition in the High Court of Allahabad in Civil Miscellaneous Writ Petition 1613 of 1985 contending that once temporary permits were issued under Section 68-F(1-C) of the Act they would remain in force until the draft scheme published under Section 68-C was approved under Section 68-D of the Act. The High Court being of the opinion that on permits being issued to the State Transport Undertaking, i.e., the Corporation in this case, the temporary permits issued to other private operators under Section 68-F(1-C) of the Act came to an end, dismissed the writ petition. Aggrieved by the judgment in the writ petition, the appellants have filed this appeal by special leave. When this petition came up for admission on April 1, 1986 before this Court it was urged by the appellants that the draft scheme published under Section 68-C of the Act having become stale was liable to be quashed in view of some of the recent decisions rendered by this Court. On the basis of the above submission notices were issued to the State Government and the Uttar Pradesh State Road Transport Corporation - the respondents herein to show cause why the draft scheme should not be quashed. The counter-affidavit has been filed on behalf of the Corporation opposing the prayer made in this appeal.

2. The draft scheme admittedly was published under Section 68-C of the Act on June 25, 1960 more than 25 years ago and it has not yet been approved. It is still in the stage of a draft scheme. We have been taken through the counter-affidavit filed on behalf of the Corporation setting out the several steps taken in the proceedings before the Hearing Authority under Section 68-D of the Act. On going through the counter-affidavit we are not convinced that sufficient grounds have been made out for sustaining the draft scheme at this distance of time. It is seen that there is tremendous pressure for the grant of permits to ply stage carriages on the route. Yet the State Transport Undertaking which is expected to provide adequate, efficient, economic and coordinated service has failed to do so even after twenty-five years have elapsed. It may be that some operators had adopted delaying tactics. But the Hearing Authority under Section 68-D of the Act should have taken necessary steps to conclude the proceedings early. The delay of nearly a quarter of a century is inexcusable. The draft scheme has virtually become outmoded. We find that there has been clear disobedience of the provisions of the Act. The proviso to Section 68-F(1-D) of the Act which provides that where the period of operation of a permit in relation to any area, route, or portion thereof specified in a scheme published under Section 68-C of the Act expires after such publication, such permit may be renewed for a limited period, but the permit so renewed shall cease to be effective on the publication of the scheme under sub-section (3) of Section 68-D of the Act indicates the legislative intention regarding the maximum period that may be sent on the proceedings which intervene between the date of publication of the draft scheme under Section 68-C of the Act and the publication of the approved or modified scheme under Section 68-D(3) of the Act. It suggests that it cannot be longer than three to five years which is usually the period during which a permit can be in force without renewal as provided in Section 58 of the Act. It could never have been in the contemplation of Parliament that the period for approving a scheme with or without modification or for rejecting it could be twenty-five years as in this case. The undesirable effects of the inordinate delay in completing the proceedings under Section 68-D of the Act are many. Two of them are :

(i) it exhibits lack of interest on the part of the administration in bringing into effect administrative decisions without undue delay, and

(ii) the public interest suffers as the members of the public are denied normal stage carriage services of a improved kind because the operators who are operating on temporary permits would have no incentive to develop and enduring good will and naturally not interested in providing better services.

3. The period of such uncertainty should not be allowed to continue any longer in the instant case.

4. In *Yogeshwar Jaiswal v. STAT* ((1985) 2 SCR 790 : (1985) 1 SCC 725) this Court has explained how inordinate delay in acting under Section 68-D of the Act would prejudice the public interest. Following the above decision in *Phool Chand Gupta v. RTA* ((1985) 4 SCC 190) and in *Shri Chand v. Govt. of U.P.* ((1985) 4 SCC 169) this Court has quashed the schemes published under Section 68-C of the Act since they had not been approved by the authority concerned under Section 68-D of the Act within a reasonable time. Following the three decisions referred to above we quash the scheme which is the subject-matter of this appeal and direct the Hearing Authority under Section 68-D of the Act not to proceed with the hearing of the matter. It is now open to the Corporation to publish, if it so desires, a fresh scheme under Section 68-C of the Act. We, however, permit the Corporation and others who are at present operating stage carriage vehicles on the route in question pursuant to the permits issued under Section 68-F(1-A) or under Section 68-F(1-C) of the Act as the case may be to operate their stage carriages until October 15, 1986. If a fresh scheme is published under Section 68-C of the Act within that period it shall be open to the Corporation to apply for

fresh temporary permits under Section 68-F(1-A) of the Act. On permits being granted under Section 68-F(1-A) of the Act all the permits now issued under Section 68-F(1-A) or under Section 68-F(1-C) of the Act shall come to an end. Until a fresh draft scheme is published under Section 68-C of the Act, it shall be open to any person to make applications for a stage carriage permit under Chapter IV of the Act. The Regional Transport Authority may also grant, if it finds that it is necessary to do so in the public interest, temporary permits under Section 62 of the Act until the draft scheme is published.

5. This appeal is accordingly allowed. There will be no order as to costs.

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