

Srikant Prasad Singh and Others

Vs

Baikunth Singh and Others

Civil Appeal No. 313 of 1979

18.07.1991

ORDER

1. Heard Mr. Ranjit Kumar, learned counsel for the appellants. Nobody appears on behalf of the respondents in spite of notice. The controversy in this case is regarding the grant of permits for the extended route of a distance of ten miles more from Begusarai to Barauni via Eastern Tilrath Gumti, Barauni Block, Pipra Chowk. The RTA keeping in view the existing policies of the Government of Bihar decided to grant temporary and provisional extension of the existing routes in favour of the appellants. Permit was also granted in favour of one Radha Krishna Singh by a separate agenda. It may be noted that Baikunth Singh who is respondent 1 in this appeal only filed objections against the grant of extension of the existing route in favour of Radha Krishna Singh. He did not raise any objection with regard to the grant of applications for extension of routes filed by the appellants before us.

2. All the parties aggrieved against the order of RTA went in revision before the State Transport Appellate Tribunal. The Tribunal by its order dated May 18, 1976 allowed the revisions filed by the appellants before us. The Tribunal held in favour of the appellants and directed that the order granting extension in their favour is confirmed but the portion of the order of the RTA that extension was temporary and provisional is set aside and it was directed to make the aforesaid extension permanent on conditions which may be considered proper by the RTA.

3. Aggrieved against the aforesaid order of the Tribunal Baikunth Singh filed a writ petition before the High Court. The High Court held that it was necessary for the RTA to comply with the provisions of Section 47(3) of the Motor Vehicles Act, 1939 and to determine the number of stage carriages to be plied on the extended route and thereafter the applications could have been considered. The High Court did not decide the question regarding the non-filing of objections by Baikunth Singh against the applications filed by the appellants. The High Court took the view that the entire order of the RTA was without jurisdiction and as such there was no need of going into the question of non-filing of objections by Baikunth Singh against the applications filed by the appellants.

4. Mr. Ranjit Kumar learned counsel for the appellants placed reliance on Shiv Chand Amolak Chand v. Regional Transport Authority [(1983) 4 SCC 433 : (1984) 1 SCR 288] and Karnataka State Road Transport Corporation, Bangalore v. B.A. Jayaram [1984 Supp SCC 244 : (1984) 2 SCR 768], and contended that the view taken by the High Court is not correct and is no longer res integra as it has been finally concluded by the decisions of this Court referred to above. We have given our consideration to the entire facts and circumstances of these cases. We do not propose to decide the controversy whether the question of law decided by the High Court in the present case is covered by the aforesaid two cases or not in view of fact that the appellants are entitled to succeed on another ground. It is an admitted position in the present case that no objections were filed by Baikunth

Singh against the applications filed by the appellants for variation in their permits so as to include the area of extended route. The High Court did not go into this question and decided the matter on the interpretation of the provisions of Section 47(3) and Section 57(3) and (8) of the Act. In our view the Tribunal was justified in the facts and circumstances of these cases taking the view that Baikunth Singh had not taken any step to file objections as required under Section 57(3) of the Act nor did the State Road Transport Corporation take any such step. Baikunth Singh as well as Corporation allowed the proceedings to go on unchallenged before the RTA. The Tribunal further observed that in such circumstances Baikunth Singh cannot be allowed to challenge the order in respect of the cases of parties 2 to 7 (appellants before us) in revisional jurisdiction.

5. In view of these circumstances we allow this appeal, set aside the order of the High Court, on a different ground as mentioned above and uphold the order of the STAT, Bihar for the extended route in favour of the appellants. The amount of security alleged to have been deposited by the appellants would be refunded to the learned counsel for the appellants. There will be no order as to costs as nobody has appeared on behalf of the respondents.

</html