

A. P. State Road Transport Corporation

Vs

M. Gurivi Reddy and Others

Civil Appeals Nos. 733-51 and 752 to 770 of 1986

(L. M. Sharma, S. Ranganathan JJ)

19.08.1992

JUDGEMENT

RANGANATHAN, J.:-

1. These are two batches of 19 appeals each. One set of appeals has been filed by Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C.) and the other set of appeals has been filed by the State of Andhra Pradesh. Both the sets of appeals are directed against the judgment of the Andhra Pradesh High Court dated 22-11-1985. All the appeals can be disposed of by a common judgment.

2. The respondents in both sets of appeals are transport operators, who were plying their stage carriages on various routes in Cuddapah district. On 17-5-77, the APSRTC gazetted about 70 draft schemes under which they proposed to ply their buses to the complete exclusion of other private operators plying their vehicles in the above district. Naturally the private operators raised objections to these schemes. It appears that till about 1981 the Government was also lukewarm about the process of nationalisation. However, a new Government was formed in 1983, which took up for hearing the objections to the draft scheme published in 1977. The Transport Minister passed an order approving the scheme. The private operators filed a batch of writ petitions and the High Court, vide its orders dated 16-12-83, quashed the approved schemes with a direction that the operators should be heard afresh and the change in circumstances should be taken into account before finalising the schemes. On 24-4-84, fresh objections were invited. The Transport Minister heard these objections. The operators objected to his hearing the objections, alleging that he had taken illegal gratification from some of the operators promising to defer the schemes. In the meantime there was a change in Government but the Transport Minister continued in the new Government with the same portfolio and he approved the scheme on 9-9-1984. A few days later, the new Government resigned and the previous Chief Minister came back to power. Thereafter, about a year later, on 7-8-85, the Government issued various Government orders approving the schemes.

3. In August 1985, about 80 writ petitions were filed in the High Court. These were disposed of by an order dated 22-11-1985. By the said order, the High Court dismissed 60 writ petitions on the short ground that these petitioners had not approached the Court with clean hands and were not entitled to the exercise of the Court's discretionary powers under Article 226 of the Constitution. This was because these writ petitions had contained an allegation that the writ petitioners either directly or through their representatives had given bribes to the Minister in question for deferring the scheme of nationalisation. The other 22 writ petitions were, however, allowed by the High Court by the same order dated 22-11-1985 common to all the writ petitions.

4. The transporters, whose writ petitions had been dismissed, preferred SLP No. 15292 of 1985 and other connected petitions before this Court. The State Government as well as APSRTC filed special leave petitions from that portion of the order of the High Court, which allowed writ petitions of 22 petitioners and directed the State Government to give a fresh hearing to these petitioners before finalising the schemes afresh. The order dated 6-12-85 of this Court by which the earlier batch of SLPs was dismissed reads as follows:

"Dr. Chitale, Sr. Advocate says that the Government of Andhra Pradesh and the State Transport Undertaking of the Andhra Pradesh would be questioning that part of the order under appeal under which some operators are given further opportunity to object before the State Government. We however do not find any ground to interfere with the judgment under appeal at the instance of the petitioners before us. Also we do not find any substance in the contention that public interest has suffered in this case. We expect the State Government to take action under S. 68-E of the Motor Vehicles Act if there is any difficulty felt by the members of the general public by the operation of the Scheme.

The Special Leave petitions are dismissed."

5. However, when the present batches of special leave petitions came up before this Court, it passed the following order on 27-2-1986:

"Special Leave granted in all the matters. The judgment of the High Court is stayed in terms of prayer (a) pending N/ M the schemes may be put into operation subject to the result of the appeals."

This is how the present batch of 38 appeals is before us.

6. Though there were as many as about 70 schemes before the Government, the stages of gazette notification, consideration of objections and approval were all simultaneous. No special features in respect of any of these schemes have been brought to our notice which would distinguish any one of them from the others. As we have already mentioned, the ground on which the approval granted to the scheme was attacked was that the Transport Minister had received illegal gratification from some of the transporters or their representatives, promising that he would defer the nationalisation and not approve the schemes. The allegation was that he later on backed out of his promise and granted approval to the schemes. So far as writ petitions of persons who had alleged that they had personally passed on certain bribes to the Minister in question were concerned, the High Court has dismissed them on the ground that they had not come to the Court with clean hands. In other words, those objections were dismissed in limine without the Court considering the allegations made against the Minister on their merits. So far as the writ petitions which were allowed were concerned, however, the High Court came to the conclusion that the approval of the schemes should be set aside on the following ground.

xxx    xxx    xxx

"there is a possibility or likelihood of bias and the proceedings relating to enquiry by the Transport (Minister) are vitiated and tainted with biased approach and the approval of the scheme and the resultant G.Os. are illegal and invalid."

7. The learned Additional Solicitor General appearing on behalf of the APSRTC submits that the

High Court has erred in quashing the notifications approving the schemes for the reason above mentioned. He points out that one batch of writ petitions had been dismissed on a short ground without entering into the merits of the allegations. In the other batch of writ petitions with which we are concerned, there were only vague allegations of corruption. The concerned Minister had filed a countel-affidavit denying the allegations. The High Court did not take any evidence on the issue and has just arrived at its conclusion of a likelihood of bias on the following circumstances:

1. There were allegations of corruption by the operators;
2. These allegations were so serious that questions were raised in the legislative assembly in regard thereto;
3. The allegations were also considered to be serious by the Chief Minister, who initiated an enquiry against the Minister concerned by the Lok Ayukta;
4. The Minister had gone back on his promise and granted approval to the schemes apparently with a view to scotching the rumors of allegations made against him.

8. Counsel submits that these circumstances can hardly make out a case of bias against the Minister. The allegations made by the transporters were very vague and were not substantiated. The mere fact that there were questions in the assembly cannot lend substance to the allegations in regard to which no evidence has been recorded. The action of the Chief Minister in initiating proceedings against the Transport Minister by the Lok Ayukta were prompted by the consideration that the Transport Minister had joined the new Ministry, which had been formed in between deserting his leadership. According to the writ petitioners they had paid moneys to the Transport Minister for deferring the scheme of nationalisation but it is their own case that the Minister did not do this. The conclusion of the High Court that the Minister backedout of a promise that he had given is purely in the nature of a surmise and is unsupported by any evidence or material. The Minister may very well have approved of the scheme in pursuance of the Government's decision to nationalise the transport routes in this district in public interest. Finally, the learned Additional Solicitor General points out that though the scheme had been approved by the Minister against whom the allegations had been made, the actual gazette notifications were issued very much later, at a point of time when the Transport Minister -was no longer in charge of the Ministry concerned. This indicates, says the learned counsel, that the approval by the said Minister had been ratified by the subsequent Government of which he was not a member.

9. We have gone through the record and considered the contentions of the learned Additional Solicitor General. There is some substance in his contention. While no doubt there were wild allegations against the Minister, they were not substantiated. One fact that stands out is that the Minister did not do anything to oblige the transporters who are said to have given him illegal gratification. On the contrary, he acted contrary to their interests. His approval of the schemes could well have been motivated by his faith in the nationalisation policy rather than represent an attempt to get out of an embarrassing situation created by the allegations made against him as surmised by the High Court. This consideration apart, there was no specific material to substantiate the allegations of corruption referred to or relied upon by the High Court. There is also the fact that the approval was gazetted only almost a year later, after the concerned Minister went out of the picture. Having regard to all these considerations, we are of the opinion that the High Court's conclusion that the enquiry and anproval were biased and the scheme, therefore, should be quashed is based on no material and cannot be sustained.

10. We would also like to point out one further reason why the practical effect of the High Court's order should not be implemented. We have already referred to the interim orders passed by this Court on 6-12-85 and 27-2-86. By these orders the State Government was permitted to act on the schemes and the operators, if aggrieved, were also given an opportunity of applying to the Government for modification of the schemes. We are informed that the schemes have been in operation for the past six years and more and no objections have been presented by the operators calling for a modification of the scheme. The learned counsel for the appellant also assures us that in case any applications are made to the Government for modifying the schemes they would be considered and disposed of on merits. If we disturb the High Court's order, we will be now creating complete chaos by restoring a situation which has ceased to exist more than six years from now. This also is an aspect to be taken into consideration, in our opinion, in disposing of these appeals.

11. Sri Kanta Rao, learned counsel for the respondents, urged that there was inordinate delay in the approval of the schemes promulgated as early as 1977 and 'that the APSRTC was not in a fit condition to ply buses on all the routes on account of its bad management and poor financial position. The contention as to the delay between 1977 and the first approval in 1983 has been examined and rejected in the earlier writ petition. The delay between 1983 and 1985 cannot, in the circumstances outlined earlier, be considered to be unreasonable. The other objection voiced by counsel has been considered and rejected by the Government. We therefore see no substance in the contentions of the counsel for respondents.

12. For the reasons above mentioned, we are of the opinion that these appeals should be allowed, and the approval of the schemes restored. The interim order passed by us permitting the Government to implement the schemes will continue to be in force until and unless modified in appropriate proceedings. We direct accordingly. But, in the circumstances, we make no order regarding costs. Appeals allowed.

</html