

KERALA HIGH COURT

Themmalapuram Bus Transport Ltd

Vs.

Regional Transport Officer

Writ Petition No. 119 of 1956

(M.S. Menon, J.)

26.06.1957

JUDGMENT

M.S. Menon, J.

1. Sri Themmalapuram Bus Transport Ltd., Palghat, is the petitioner before me. The Secretary Regional Transport Authority, Malabar, (1st respondent) suspended the permit of a bus belonging to the company by Ext. A dated 21-9-1955. The order reads as follows:

"It was reported in the report of the Sub-Inspector of Police, Kollengode, dated 14-3-55 that on 12-3-55 at 6-30 P.M. at Koduvayar Bazaar, when the bus MDM 5161 was checked by the S.-I. of Police Kollengode, he found carrying an overload of 9 adult passengers in it.

As this was violation of one of the conditions of the permit, the operator was called on, in this office charge Memo No. 7809/B3/55 dated 18-4-55 to show cause as to why disciplinary action should not be taken against him under Section 60 of the Motor Vehicles Act, 1939. The operator in his explanation dated 30-4-55 states that the bus had carried only the correct load, and that when the Sub-Inspector of Police checked the bus at Koduvayar bazaar, he counted the persons seated in and standing around the bus, as passengers. His explanation is not satisfactory and not accepted. The permit of the bus is therefore suspended for a period of 45 days with effect from 25-10-55."

2. The company took up the matter in appeal but without success. Ext. B is the appellate order passed by the Secretary, Central Road Traffic Board, Madras (2nd respondent) on 27-12-55. The concluding portion of that order is :

"The punishment is not too severe. I see no reason to interfere. The appeal is dismissed."

3. This petition under Article 226 of the Constitution was then filed before the Madras High Court. The prayer in the petition is that the Court

"be pleased to call for the records from the 1st and 2nd respondents relating to orders No. 7809/B3/55 dated 21-9-55 and R. No. 45720/A1/55 dated 27-12-55 respectively and to issue a writ of certiorari or other appropriate writ or direction and to quash the same and to pass such further or other order or orders as this Hon'ble Court may deem fit in the circumstances of the case."

4. The prayer urged before me by counsel for the petitioner, however, was not that those orders should be quashed but that I should hold that the order of suspension became infructuous on the expiry of 45 days from 25-10-1955 and issue a writ of prohibition precluding the respondents from giving effect to the order of suspension embodied in Ext. A and confirmed by Ext. B. The contention is stated as follows in paragraph 8 of the affidavit in support of the petition :

"I am also advised that as the order of suspension is for a stated and definite period, it is illegal to give effect to that order of suspension after the definite date."

In other words, the contention is that though the order of suspension was never enforced as a result of the "stay orders" sought and obtained by the petitioner first from the 2nd respondent and then from the High Court of Madras, Ext. A has become infructuous by the efflux of time, that is, by the expiry of 45 days from 25-10-1955.

5. There is no merit in this contention. The power to stay is a necessary corollary to the power to entertain an appeal or revision. Its exercise stops further proceedings, and in the case before me the effect of the "stay orders", as I see it, was to postpone the commencement of the 45 days' suspension from 25-10-1955 to a point of time subsequent to the cancellation of those orders.

6. The only other contention urged before me was that there was no delegation of the powers under Rule 134-A of the Madras Motor Vehicles Rules, 1940, and that the 1st respondent had hence no authority to pass an order like Ext. A. There is no substance in this contention. The proceedings of the meeting of the Regional Transport Authority, Malabar, held on 14-7-1947 shows that there has been such a delegation. The very first item relates to this matter and reads as follows :

"To consider the proposed delegation of powers under Rule 134-A of the Madras Motor Vehicles Rules to the Secretary, Regional Transport Authority (Regional Transport Officer) and to approve his action under 135. Approved."

7. In the light of what is stated above this petition must fail and should be dismissed. Order accordingly. No costs.

Petition dismissed.