

RAJASTHAN HIGH COURT

Jairamdas

Vs.

Regional Transport Authority, Jodhpur

Civil Writ Case No. 64 of 1956

(Wanchoo, C.J. and Dave, J.)

12.11.1956

JUDGMENT

Wanchoo, C.J.

1. This is an application under Article 226 of the Constitution by Jairam Dass in a matter arising out of grant of permits under the Motor Vehicles Act. The applicant wants a writ, direction or order from this Court against the revocation of a permit by the Regional Transport Authority which permit had been granted to him by the appellate authority.

2. The facts relating to this application may be briefly mentioned.

3. It appears that the applicant was at sometime Promised two permits, but in 1953 the Regional Transport Authority granted him only one permit. Thereupon he went in appeal to the appellate authority. That authority passed an order on 11-6-1953 in favor of the applicant and directed the Regional Transport Authority to grant one more permit to the applicant. This is really the basic order with which we are concerned in this case. The appellate authority has said in this order that the applicant had promised to put new buses of not earlier than 1950 model within two months on this route.

4. Thereafter the applicant came to the Regional Transport Authority for the actual issue of the permits. One permit was issued to him. Trouble arose over the issue of the second permit. The Regional Transport Authority insisted in accordance with the promise made by the applicant to the appellate Authority upon the production of a bus of not earlier than 1950 model. The Regional Transport Authority went on giving time

to the applicant to produce a second bus of this description.

The applicant, however, failed to do so and eventually on 23-2-1955 the Regional Transport Authority cancelled the permit granted to the applicant by the appellate authority under Rule 86 (b) of the Rajasthan Motor Vehicles Rules 1951. That matter was taken in appeal by the applicant to the appellate authority and the appeal has been dismissed. Thereafter the present application was filed in this Court.

5. The main contentions of the applicant before us are two-fold. In the first place he contends that the order of the appellate authority dated 11-6-1953 by which that authority put a condition that the applicant should produce a bus of not earlier than 1950 model was beyond its powers and therefore the Regional Transport Authority, when it insisted on his producing a bus of not earlier than 1950 model, was acting beyond the powers conferred on it by law and therefore its order revoking the permit under Rule 86(b) was incorrect on the face of it.

6. The second point urged by the applicant is that as the permit was granted to him by the appellate authority, it could only be cancelled by that authority and not by the Regional Transport Authority and in this connection the applicant relies on Section 60, sub-section (1) of the Motor Vehicles Act.

7. The application has been opposed by the Transport Authorities as well as by Laxminarayan who seems to be the person who secured the permit after the applicant's permit was cancelled.

8. We are of opinion that there is no force in either of the contentions of the applicant. Taking the first point, there is no doubt that this Court has held that it is not open to the Regional Transport Authority or the appellate authority to impose a condition that a motor vehicle shall be of a particular year unless there is such a rule. It has also been held that in the absence of such rule any condition imposed by the Transport Authorities whether original or appellate about the year of manufacture of a motor vehicle is illegal. If we were satisfied that in this case that the appellate authority imposed a condition of this nature, we might be disposed to interfere. But we find from the order of the appellate authority dated 11-6-1953 that the applicant himself promised to put on the road buses of not earlier than 1950 model. That may have been one of the reasons which may have persuaded the appellate authority to grant him the extra permit. We cannot now allow the applicant to go back on that promise. In these circumstances, it was not improper for the Regional Transport Authority to insist that

the applicant should produce a bus of not earlier than 1950 model. Under Rule 86(a) of the Rajasthan Motor Vehicle Rules 1951, a person to whom a regular permit is granted is required to produce the vehicle for which the permit is granted within one month or within such longer period as the authority may allow. Under Rule 86(b) if the vehicle is not produced within the period mentioned in Rule 86(a), the Regional Transport Authority has the power to revoke the permit granted. In this case the order of the Regional Transport Authority of the 23-2-1955 shows that the applicant failed to produce a bus of not earlier than 1950 model, though the Regional Transport Authority gave him time for over a year to do so. In these circumstances, the Regional Transport Authority was authorised to cancel the permit which had been granted to the applicant. The order of the 23-2-1955, therefore, of the Regional Transport Authority cannot be assailed on this ground.

9. The second contention of the applicant is that the Regional Transport Authority could not cancel this permit at all, because it had been granted by the appellate authority. In this connection reliance has been placed on Section 60, Sub-section (1) of which runs as follows:

"The Transport Authority which granted a permit may cancel the permit or may suspend it for such period as it thinks fit".

10. The contention of the applicant is that it is only the Transport Authority which granted the permit that can cancel it and in this case the permit was granted by the appellate authority and it is therefore only the appellate authority which can cancel it. We are of opinion that this contention is completely unfounded. There are, in every State, a number of Transport Authorities and what Section 60, Sub-section (1) contemplates is that a permit which has been granted by one Transport Authority should only be cancelled by that Transport Authority and by no other. A permit granted by the appellate authority in appeal under Section 64 stands in our opinion on a different footing altogether. The appellate authority is constituted for the purpose of hearing appeals and while doing so, it may reverse the order of the Regional Transport Authority and grant a permit. But such a permit must, in the circumstances, be held to have been granted in law by the Regional Transport Authority which originally refused to do so. The duty of the appellate authority is to hear appeals and it will hear appeal in case a permit is wrongly refused. But where a permit is granted by the appellate authority under Section 64, it is the Regional Transport Authority from

whose order the appeal was filed before the appellate authority which is the competent Transport Authority under Section 60, Sub-section (1) to cancel the permit if necessity arises for it. This contention of the applicant also fails.

11. In these circumstances, there is no force in this application and it is hereby dismissed. In view of the circumstances, we pass no order as to costs.

Application dismissed.