

RAJASTHAN HIGH COURT

Balu Lal

Vs.

State of Rajasthan

Civil Special Appeal No. 514 of 2000
(N.N. Mathur and Jagat Singh, JJ.)

22.03.2001

JUDGEMENT

Mathur, J.

1. On the request of the learned counsel for the parties, the special appeal is taken up for final disposal.
2. This special appeal is directed against the judgment of the learned single Judge dated 19th May, 2000 dismissing the writ petition with the observation that if the writ petitioner approaches the State Transport Appellate Authority (hereinafter referred to as STAT) for the review of the order dated 29th March, 2000 (Annexure 4), the same shall be considered and disposed of in accordance with law.
3. It appears that a permit was granted in favor of respondent No. 4 on the Kapasan-Bhilwara route by the respondent No. 3 R.T.A., Chittorgarh vide resolution dated 17-12-96. The said order was challenged by way of a revision under Section 90 by the existing operator Amba Devi before the STAT. The said revision application was allowed and the permit granted in favor of the respondent No. 4 was cancelled. The respondent No. 4 submitted a fresh application before the respondent No. 3 R.T.A., Chittorgarh, which was rejected by resolution dated 17-12-99 on the ground that the application does not bear signatures. The respondent No. 4 preferred an appeal against the said order before the STAT. In the said appeal the R.T.A., Chittorgarh was only arrayed as the respondent. The STAT vide order dated 29th March, 2000 allowed the appeal and directed to grant permit to respondent No. 4 on the same conditions as provided in the resolution dated 17-12-90.

4. The said order of the STAT was challenged before this Court. It was contended before the learned single Judge that the decision of the 3rd respondent R.T.A., Chittorgarh taken after hearing all the concerned parties including the existing operators, could not be reversed by the learned STAT without hearing the existing operators. Learned single Judge was of the view that such an objection can be taken by way of a review before the STAT.

5. It is contended by Mr. Bharat Vyas learned counsel for the appellant that the learned single Judge has committed an error in not deciding the writ petition on merit and relegating the petitioner to the remedy of review before the STAT. It is submitted that the Motor Vehicles Act is a self-contained Code providing all the contingencies which may occur under the provisions of the Act. There is no provision in the Act providing review by the STAT of its own order. The learned counsel in support of the contention has relied upon a decision of this Court *Jagannath Singh v. R.T.A. reported in* ¹ On the other hand it is submitted by the learned counsel appearing for the respondent No. 4 that the writ petition itself was not maintainable as writ petitioner is an existing operator and he cannot maintain any objection in the matter of grant of permit.

6. We have considered the rival contentions. It is well settled position of law that review is a creature of statute and an authority or a Tribunal unless specifically clothed with such power by statute under which they have been created or functioning cannot exercise the powers of review in the cases decided by them. Though, the proposition needs no authority to be cited, still, may it be for cosmetic purpose, we may refer to *Patel Narshi v. Prodyuman Singh, reported in* wherein the Court held, thus.

"The power to review is not an inherent power. It must be conferred by law either specifically or necessary implication."

The learned counsel for the respondent has not been able to point out any provision in the Motor Vehicles Act, which empowers the STAT to review its own order. Obviously, the learned single Judge has committed error in asking the petitioner to approach the STAT by way of review.

7. The learned counsel has read before us the order of the STAT dated 29th March,

2000, Annexure 4. The learned STAT has made some observations saying that the resolution of the R.T.A., Chittorgarh dated 1-12-99 is a outcome of a "conspiracy". Our attention has been invited particularly to the observations at internal Page 5 of the order. The observations have been made in absence of the existing operators and the R.T.A. We, disapprove such sort of loose observations in a judicial order. It is unfair to use the judicial proceedings to proclaim oneself the only crusader at the cost of making insinuating loose observations against a person or authority at this back. In the instant case there was no reason for the learned S.T.A.T. to impute motives to public authorities. Civil servants also plays an important role in the administration of justice. There is unfortunate habit of substituting our own predilection for law. We can do no better than to remained ourselves the advise of Apex Court in *Shabi Construction Company v. City and Industrial Development Corporation, reported in* ³

"Judges must act with sobriety, moderation and restrain and must have the humility to recognize that they are not infallible."

It would be just and appropriate that the STAT rehears the appeal afresh after giving opportunity of hearing to the parties affected.

8. Consequently, we allow the special appeal, set aside the judgment of the learned single Judge dated 19-5-2000 and the order of the STAT dated 29-3- 2000. We direct the STAT respondent No. 2 to decide the appeal afresh after giving opportunity of hearing to all the parties concerned. The STAT will decide the appeal by 31st May, 2001. The parties shall appear before the STAT on 17th April, 2001. This date has been fixed on the request of the learned counsel for the parties.

9. At this stage, it is pointed out that the respondent No. 4 is plying the vehicle under resolution dated 19-5-2000. In the peculiar facts and circumstances of the case, we consider appropriate to allow the respondent No. 4 to continue to ply the vehicle under the resolution dated 19-5-2000 up to 10th June, 2001.

Appeal allowed.

Cases Referred.

1. 1970 Raj LW 200.
2. AIR 1970 SC 1273

3. (1995) 4 SCC 301