

Onkar Singh & Others vs Regional Transport Authority, Agra & ... on 23 April, 1986

Equivalent citations: 1986 AIR 1719, 1986 SCR (2) 735, AIR 1986 SUPREME COURT 1719, 1986 ALL. L. J. 673, (1986) 2 CURLJ(CCR) 628, (1986) ALL WC 11, 1986 2 UJ (SC) 1, 1986 (3) SCC 259, (1986) 2 CURCC 541, (1986) 3 SUPREME 61, (1986) 2 SCJ 475

Author: E.S. Venkataramiah

Bench: E.S. Venkataramiah, Sabyasachi Mukharji

PETITIONER:

ONKAR SINGH & OTHERS

Vs.

RESPONDENT:

REGIONAL TRANSPORT AUTHORITY, AGRA & OTHERS

DATE OF JUDGMENT 23/04/1986

BENCH:

VENKATARAMIAH, E.S. (J)

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VENKATARAMIAH, E.S. (J)

MUKHARJI, SABYASACHI (J)

CITATION:

1986 AIR 1719

1986 SCR (2) 735

1986 SCC (3) 259

1986 SCALE (1) 561

CITATOR INFO :

RF 1992 SC1789 (5)

ACT:

Motor Vehicles Act, 1939 ss. 68-C and 68-D - Inordinate delay in approving the draft scheme - Whether delay prejudices public interest warranting interference by court - Necessity of modifying/approving the draft scheme expeditiously - Explained.

HEADNOTE:

The appellants, Private Operators, had obtained temporary permits under section 68-F (1-C) of the Motor Vehicles Act 1939 on the route Somna-Naujheel. They could not obtain permits under Chapter IV of the Act to operate on

the said route since a scheme published in 1960 under section 68-C of the Act was in force. They were asked to stop plying their vehicles. Aggrieved by the stoppage of the running of their vehicles, they filed a Writ Petition in the High Court contending that once temporary permits were issued under Section 68-F(1-C) of the Act, they would remain in force until the draft scheme published under s. 68-C was approved under s. 68-D of the Act. The High Court dismissed the Petition on the ground that since permits had already been issued to the State Transport Undertaking, the temporary permits issued to other private operators under section 68-F(1-C) of the Act came to an end.

In the appeal to the Supreme Court, it was contended on behalf of the appellants that the draft scheme, published under section 68-C of the Act having become stale was liable to be quashed due to inordinate delay in completing the proceedings under s. 68-D of the Act.

Allowing the appeal.

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HELD : 1(i) The draft scheme published in the year 1960 u/s 68-C of the Act is quashed and the Hearing Authority under section 68-D of the Act is directed not to proceed with the hearing of the matter. [740 F]

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1.(ii) It is now open to the Uttar Pradesh State Road Transport Corporation to publish, if it so desires a fresh scheme under section 68-C of the Act. The Corporation on the route in question pursuant to the permits issued under section 68-F(1-A) or under section 68-F(1-C) of the Act, as the case may be, are permitted to operate their stage carriages until 15.10.1986. If a fresh scheme is published under section 68-C of the Act within that period it shall be open to the Corporation to apply for fresh temporary permits under section 68-F(1-A) of the Act. On permits being granted under section 68-F(1-A) of the Act, all the permits now issued under section 68-F(1-A) or under section 68-F(1-C) of the Act shall come to an end. Until a fresh draft scheme is published under section 68-C of the Act, it shall be open to any person to make applications for a stage carriage permit under Chapter IV of the Act. [740 F-H; 741 A-B]

2.(i) The proviso to section 68-F(1-D) of the Act which provides that where the period of operation of a permit in relation to any area, route, or portion thereof specified in a scheme published under section 68-C of the Act expires after such publication, such permit may be renewed for a limited period, but the permit so renewed shall cease to be effective on the publication of the scheme under sub-section (3) of section 68-D of the Act indicates legislative intention regarding the maximum period that may be spent on the proceedings which intervene between the date of publication of the draft scheme under section 68-C of the Act and the publication of the approved or modified scheme under section 68-D(3) of the Act. It suggests that it cannot

be longer than 3 to 5 years which is usually the period during which a permit can be in force without renewal as provided in section 58 of the Act. It could never have been in the contemplation of Parliament that the period for approving a scheme with or without modification or for rejecting it could be 25 years as in this case. [739 E-H]

2.(ii) Two of the undesirable effects of the inordinate delay in completing the proceedings under section 68-D of the Act are : (i) it exhibits lack of interest on the part of the administration in bringing into effect administrative decisions without undue delay; and (ii) the public interest suffers as the members of the public are denied normal stage carriage

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services of an improved kind because the operators who are operating on temporary permits would have no incentive to develop any enduring goodwill and naturally not interested in providing better services. [740 A-C]

In the instant case, sufficient grounds have not been made out for sustaining the draft scheme at this distance of time. It is seen that there is tremendous pressure for the grant of permits to ply stage carriages on the route. Yet the State Transport Undertaking which is expected to provide adequate, efficient, economic and co-ordinated service has failed to do so even after twenty five years have elapsed. It may be that some operators had adopted delaying tactics. But the Hearing Authority under section 68-D of the Act should have taken necessary steps to conclude the proceedings early. The delay of nearly a quarter of a century is inexcusable. The draft scheme has virtually become out-moded. Therefore, there has been clear disobedience of the provisions of the Act. [739 C-E]

Yogeshwar Jaiswal v. State Transport Appellate Tribunal
JUDGMENT:

Transport Authority, Ujjain & Ors., [1985] 4 S.C.C. 190, Shri Chand v. Government of U.P. Lucknow & Ors., [1985] 4 S.C.C. 169, relied upon.

& CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1360 of 1986.

From the Judgment and Order dated 13th January, 1986 of the Allahabad High Court in C.M.W.P. 1613 of 1986.

Mrs. Rani Chhabra and R.K. Jain for the Appellants. O.P. Rana, Anil Dev Singh, Raju Ramachandran and Mrs. Shobha Dikshit for the Respondents.

The Judgment of the Court was delivered by VENKATARAMIAH, J. The appellants are carrying on the business of running stage carriages in the State of Uttar Pradesh. They had obtained temporary permits under section 68-F(1-C) of the Motor Vehicles Act, 1939 (hereinafter referred to as 'the Act') on the route Somna-Naujheel. They could not obtain permits under Chapter IV of the Act to operate

on the said route since a scheme published under section 68-C of the Act in the year 1960 was in force. It would appear that the Uttar Pradesh State Road Transport Corporation (hereinafter referred to as 'the Corporation') applied for fifteen temporary permits for operating its stage carriages on the route in question and obtained them from the Regional Transport Authority, Agra under section 68-F(1-A) of the Act as per its order dated 31.1.1984. But the Corporation introduced only five services against fifteen permits. Thus there were ten vacancies. The Regional Transport Authority granted ten temporary permits to ten private operators in those ten vacancies. One Devender Pal Singh who was holding a non-temporary permit issued under Chapter IV of the Act filed a revision petition under section 64-A of the Act before the State Transport Appellate Tribunal. The petition was dismissed. On account of the pressure of traffic the number of temporary permits was increased to thirty four. The Corporation was granted these additional permits. But it failed to operate its services under all the permits issued to it. The private operators who wanted to operate the vehicles were not granted temporary permits. The appellants were asked to stop plying their vehicles under the temporary permits obtained by them. Aggreived by the stoppage of the running of their vehicles, they filed a writ petition in the High Court of Allahabad in Civil Miscellaneous Writ Petition No. 1613 of 1985 contending that once temporary permits were issued under section 68-F(1-C) of the Act they would remain in force until the draft scheme published under section 68-C was approved under section 68-D of the Act. The High Court being of the opinion that on permits being issued to the State Transport Undertaking, i.e., the Corporation in this case, the temporary permits issued to other private operators under section 68-F(1-C) of the Act came to an end, dismissed the writ petition. Aggreived by the Judgment in the writ petition, the appellants have filed this appeal by special leave. When this petition came up for admission on April 1, 1986 before this Court it was urged by the appellants that the draft scheme published under section 68-C of the Act having become stale was liable to be quashed in view of some of the recent decisions rendered by this Court. On the basis of the above submissions notices were issued to the State Government and the Uttar Pradesh State Road Transport Corporation - the respondent herein to show cause why the draft scheme should not be quashed. The counter-affidavit has been filed on behalf of the Corporation opposing the prayer made in this appeal.

The draft scheme admittedly was published under section 68-C of the Act on June 25, 1960 more than 25 years ago and it has not yet been approved. It is still in the stage of a draft scheme. We have been taken through the counter- affidavit filed on behalf of the Corporation setting out the several steps taken in the proceedings before the Hearing Authority under section 68-D of the Act. On going through the counter-affidavit we are not convinced that sufficient grounds have been made out for sustaining the draft scheme at this distance of time. It is seen that there is tremendous pressure for the grant of permits to ply stage carriages on the route. Yet the State Transport Undertaking which is expected to provide adequate, efficient, economic and co-ordinated service has failed to do so even after twenty five years have elapsed. It may be that some operators had adopted delaying tactics. But the Hearing Authority under section 68-D of the Act should have taken necessary steps to conclude the proceedings early. The delay of nearly a quarter of a century is inexcusable. The draft scheme has virtually become out-moded. We find that there has been clear disobedience of the provisions of the Act. The proviso to section 68-F(1-D) of the Act which provides that where the period of operation of a permit in relation to any area, route, or portion thereof specified in a scheme published under section 68-C of the Act expires after such publication, such permit may be

renewed for a limited period, but the permit so renewed shall cease to be effective on the publication of the scheme under sub-section (3) of section 68-D of the Act indicates the legislative intention regarding the maximum period that may be spent on the proceedings which intervene between the date of publication of the draft scheme under section 68-C of the Act and the publication of the approved or modified scheme under section 68-D(3) of the Act. It suggests that it cannot be longer than three to five years which is usually the period during which a permit can be in force without renewal as provided in section 58 of the Act. It could never have been in the contemplation of Parliament that the period for approving a scheme with or without modification or for rejecting it could be twenty five years as in this case. The undesirable effects of the inordinate delay in completing the proceedings under section 68-D of the Act are many. Two of them are :

- (i) it exhibits lack of interest on the part of the administration in bringing into effect administrative decisions without undue delay, and
- (ii) the public interest suffers as the members of the public are denied normal stage carriage services of an improved kind because the operators who are operating on temporary permits would have no incentive to develop any enduring good will and naturally not interested in providing better services.

The period of such uncertainty should not be allowed to continue any longer in the instant case.

In Yogeshwar Jaiswal v. State Transport Appellate Tribunal & Ors., [1985] 2 S.C.R. 790, this Court has explained how inordinate delay in acting under section 68-D of the Act would prejudice the public interest. Following the above decision in Phool Chand Gupta v. Regional Transport Authority, Ujjain & Ors., [1985] 4 S.C.C. 190, and in Shri Chand v. Government of U.P., Lucknow & Ors., [1985] 4 S.C.C. 169, this Court has quashed the schemes published under section 68-C of the Act since they had not been approved by the authority concerned under section 68-D of the Act within a reasonable time. Following the three decisions referred to above we quash the scheme which is the subject matter of this appeal and direct the Hearing Authority under section 68-D of the Act not to proceed with the hearing of the matter. It is now open to the Corporation to publish, if it so desires, a fresh scheme under section 68-C of the Act. We, however, permit the Corporation and others who are at present operating stage carriage vehicles on the route in question pursuant to the permits issued under section 68-F(1-A) or under section 68-F (1-C) of the Act as the case may be to operate their stage carriages until 15.10.1986. If a fresh scheme is published under section 68-C of the Act within that period it shall be open to the Corporation to apply for fresh temporary permits under section 68-F(1-A) of the Act. On permits being granted under section 68-F(1-A) of the Act all the permits now issued under section 68-F(1-A) or under section 68-F(1-C) of the Act shall come to an end. Until a fresh draft scheme is published under section 68-C of the Act, it shall be open to any person to make applications for a stage carriages permit under Chapter IV of the Act. The Regional Transport Authority may also grant, if it finds that it is necessary to do so in the public interest, temporary permits under section 62 of the Act until the draft scheme is published.

This appeal is accordingly allowed. There will be no order as to costs.

M.L.A.

Appeal allowed.

