

Maharashtra State Road ... vs Shri Balwant Regular Motor ... on 22 August, 1968

Equivalent citations: 1969 AIR 329, 1969 SCR (1) 808, AIR 1969 SUPREME COURT 329

Author: V. Ramaswami

Bench: V. Ramaswami, J.C. Shah, A.N. Grover

PETITIONER:
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION

Vs.

RESPONDENT:
SHRI BALWANT REGULAR MOTOR SERVICE. AMRAVATI & ORS.

DATE OF JUDGMENT:
22/08/1968

BENCH:
RAMASWAMI, V.
BENCH:
RAMASWAMI, V.
SHAH, J.C.
GROVER, A.N.

CITATION:
1969 AIR 329 1969 SCR (1) 808
CITATOR INFO :
E 1970 SC 769 (5)

ACT:
Motor Vehicles Act (4 of 1939), ss. 48(1), 57(7) and 58(1)-Order granting permit-Period of validity not mentioned--Effect of.-Date of commencement not mentioned-Effect of.
Practice-Filling up date in earlier order-If review.
If order granting permit can be oral-Obligation to give reasons immediately.
Writ under Art. 226-Conduct of party when precludes issue of.

HEADNOTE:
On May 10, 1965, the R.T.A., after considering the

applications by the respondents (private operators) for renewal of their permits and the application by the appellant for a fresh grant of permits, for the same routes, passed orders dismissing the applications for renewal and granting substantive permits to the appellant. The order was challenged by the private operators in writ petitions and the High Court directed that, pending the disposal of the writ petitions, status quo should be maintained by granting temporary permits to the private operators. Thereafter, while the writ petitions were pending, the appellant and the private operators filed a joint application of compromise before the R.T.A. by which the private operators agreed to withdraw the writ petitions. The R.T.A., on September 11, 1965, upon such assurance and after hearing the parties, directed that the appellant, which was granted substantive permits by order dated May 10, 1965, would commence operation on the routes described in Schedule A to the order from November 1, 1965, that the private operators would operate on temporary permits on routes mentioned in Schedule B till June 30, 1967 and that the appellant would commence operation on those routes from July 1, 1967. With regard to the routes mentioned in Schedule C, the private operators agreed to surrender their permits in favour of the appellant but, as the appellant had not made any application for those routes, the R.T.A. decided to call for applications as provided for in the Motor Vehicles Act, 1939. On October 8, 1965 the private operators withdrew the writ petitions, and thereupon the R.T.A., on October 15, 1965, announced the decision taken on September 11, 1965, and thereafter, invited applications for the routes mentioned in Schedule C. The appellant made its application. The private operators also applied, but they applied not only for permits for C Schedule routes, but also in respect of the B Schedule routes. On April 5, 1967, permits were issued to the appellant in respect of the B Schedule routes as per the orders dated May 10, 1965 and September 11, 1965, for a period of 5 years commencing from July 1, 1967; At its meeting on June 29, 1967, the R.T.A. passed resolutions in the presence of the parties granting substantive permits in respect of Schedule C routes to the appellant, and rejecting the applications of private operators. The minutes of the meeting were formally recorded in a letter of July 20, 1967, detailed reasons in support of the order were given, and the letter was communicated to the private operators. The order dated June 29,

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1967 was challenged by the private operators in writ petitions and the High Court allowed the petitions quashing the grant of permits to the appellant on the routes described in Schedules B and C.

In appeal to this Court, on the questions: (1) whether the order of the R.T.A. dated May 10, 1965, was invalid because,

(a) the period of validity of the permit was not expressly mentioned, and (b) the order did not mention the date of commencement of the period of the permit; (2) whether the order of the R.T.A. dated September 11, 1965, fixing the date of commencement of the service was invalid, because, the order was a review of the order dated May 10, 1965 and the R.T.A. had no power of review; (3) whether the order dated September 11, 1965, was invalid because it was passed during the subsistence of the interim order of the High Court maintaining status quo; (4) whether in view of their conduct, it was not open to the private operators to apply for a writ for quashing the order of the R.T.A. dated September 11, 1965; and (5) whether the order of the R.T.A. dated June 29, 1967, was invalid, because, the order was oral and no reasons were given by the R.T.A. immediately for the order.

HELD: (1) (a) There is no statutory requirement that the R.T.A. should expressly mention in its order granting permit under s. 48(1) the period for which the permit was to be granted. The order of the R.T.A. should be construed in the language of s. 48(1) which empowers the R.T.A. to grant a stage carriage permit 'in accordance with the application' or 'with such modifications as it deems fit'. As required by r. 80 of the Bombay Motor Vehicles Rules, the appellant mentioned 5 years as the period for which the permit was to be granted. Since the R.T.A. did not make any modification it must be deemed that the grant was made for 5 years, in accordance with the application. Therefore, the order dated May 10, 1965 could not be held illegal on the ground that the period was not expressly mentioned. [815 H; 816 B-E]

(b) There is nothing in the Act or in the Rules to suggest that the R.T.A. is under an obligation to mention in the order of grant of permit the actual date from which the permit was to be effective. Under s. 48(3)(i) of the Act, the R.T.A. may specify as a condition that service shall commence from a specified date. But it is merely permissible and does not apply to the order of grant of a permit which is dealt with in s. 48(1). In the absence of any express statutory provision it must be taken that the date of the commencement of the period of the permit would be the date from which it was actually issued. Therefore, the order of the R.T.A. was not invalid, because, the date of commencement was not mentioned. [816 F-H]

Shree Laxmi Bus Transport Co. v. The R.T.A. Rajkot, 62 Bom. L.R. 958, referred to.

(2) It is not correct to say that the order of the R.T.A. dated September 11, 1965, was an order of review of the previous order dated May 10, 1965. The later order of the R.T.A., fixing the date of commencement of the service was only supplemental and filled up an omission in the previous order which was left intact. [817 E-F]

(3) The order of the R.T.A. dated September 11, 1965 was a conditional one which was intended to come into effect only

after the writ petitions in the High Court were withdrawn by the private operators, and it was in fact announced after the petitions were withdrawn. Therefore, there is no violation of the interim order of the High Court. [818 B-C]

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(4) The private operators were parties to the order dated September 11, 1965, had accepted that order, acted upon it, and derived benefits and advantages from it for nearly one year and nine months. In those circumstances there was such acquiescence in the order on the part of the private operators as to disentitle them to a grant of a writ under Art. 226 of the Constitution. [818 D-E, G-H]

Moon Mills Ltd. v. M.R. Meher, A.I.R. 1967 S.C. 1450, 1454, followed.

(5) There is no provision either in the Act or the Rules which requires either expressly or by necessary implication, that the R.T.A. should give a written decision with regard to the grant of a stage carriage permit or to give reasons therefor along with the written decision. Therefore, in the absence of any statutory provision, there is nothing wrong in principle if an administrative tribunal gives a decision orally and subsequently reduces to writing the reasons therefor and communicates it to the parties. [823 G; 827 D-E]

Procedure in English law referred to.

Bhagat Raja v. Union of India, [1967] 3 S.C.R. 302 and Prag Das Umar Vaishya v. Union of India, C.A. No. 657 of 1967, dated August 17, 1967, held inapplicable.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 825 851 of 1968.

Appeals from the judgment and order dated October 19, 20, 1967 of the Bombay High Court, Nagpur bench in Special Civil Applications Nos. 575 to 596, 634, 540 and 570 to 572 of 1967 respectively.

C.K. Daphtary, Attorney-General, Santosh Chatterjee and D.P. Singh, for the appellant (in all the appeals). M.N. Phadke, C.G. Madholkar and A. G. Ratnaparkhi, for respondent No. 1 (in C. As. Nos. 832, 840, 842, 844 and 847' to 851 of 1968).

M.N. Phadke, M.W. Puranik and Naunit Lal, for respondent No. 1 (in C. As. Nos. 825 to 831 and 833 to 838 of 1968). R.V.S. Mani, for respondent No. 1 (in C.A. No. 845 of 1968). The Judgment of the Court was delivered by Ramaswami, J. These appeals are brought by certificate from the judgment of the Bombay High Court dated October 20, 1967 in Special Civil Applications Nos. 540, 570 to 572, 575 to 596 and 634 of 1967 filed under Arts. 226 and 227 of the Constitution of India.

The appellant is the State Road Transport Corporation of the State of Maharashtra constituted under the Road Transport Corporation Act (64 of 1950). Respondent No. 1 who is a private stage carriage operator alongwith other such private operators, had applied for renewal of stage carriage permits which they were holding and which permits were to expire on March 31, 1961. The Provincial Transport Services (the predecessor of the appellant) had been also operating the stage carriage service in the adjoining and nearby areas and had made applications sometime in January, 1961 for grant of substantive permits for the same routes. The Provincial Transport Services had published a scheme under s. 68D of the Motor Vehicles Act, 1939 (hereinafter called the 'Act') under which it proposed to take over several routes in the region including the routes in respect of which renewal applications were made by the appellant and the private operators. The scheme was approved by the Chief Minister of the then Bombay State. The approval was, however, challenged by private operators in Special Civil Application No. 86 of 1962 in the High Court. By its order dated 29/30th August, 1963 passed in that case, the High Court quashed the scheme with the direction that the matter should be reconsidered by the approving authority. The scheme was thereafter not pursued.

By a notification dated June 10, 1961 under s. 47A of the Road Transport Corporation Act of 1950 the Central Government provided for the amalgamation of the Bombay Road Transport Corporation with the Commercial Undertaking of the State Government namely the Provincial Transport Services. It was also provided in the notification that any application for permit made by the Provincial Transport Services would be deemed to. be an application made by the Bombay Road Transport Corporation. In other words, the Provincial Transport Services was substituted by the State Road Transport Corporation which is now known as Maharashtra State Road Transport Corporation (hereinafter referred to as the 'appellant').

The applications for renewal of permits and applications for substantive permits were considered by the Regional Transport Authority, Nagpur (hereinafter called the 'R.T.A.') on October 9 and 10, 1964 and the R.T.A. passed a common order by which all the applications for renewal made by private operators were rejected and the permits were granted to the appellant. This order of the R.T.A. was challenged by the private operators in Special Civil Application No. 603 of 1964. One of the grounds on which the order was challenged was that the R.T.A. was not validly constituted. By its order dated January 14, 1965, the High Court quashed the order passed by the R.T.A., holding that it was not properly constituted on October 13, 1964 when it passed the common order. Thereafter the applications for renewal of permits and for fresh grant of permits were again considered by the R.T.A. at its meeting held on May 10, 1965. By its order on the same date, the R.T.A. dismissed all the applications for renewal made by the private operators and directed that substantive permits for these routes should be granted to the appellant. The order of the R.T.A. dated May 10, 1965 was challenged by the private operators in different Civil Applications. One of the applications was Special Civil Application No. 488 of 1965. In this application, one of the prayers was to the effect that pending the decision of the application the R.T.A. should be directed to maintain status quo. Clause 3 of the prayer was to the following effect:

"That pending the decision of this application the R.T.A. Nagpur be directed to maintain status quo viz., to grant temporary permit to the petitioner as it has been

done upto now on the routes Chikhli-Buldana and Chikhli Deulgaonraja on which the petitioner is operating his vehicles."

On June 4, 1965 Paranipe, J. ordered as follows:

"Rule. Expedite hearing at Nagpur on 21-6- 1965. In the meantime R.T.A. Nagpur to maintain status quo in terms of Clause 3."

The interim order was subsequently confirmed by the High Court and all the petitions were directed to be heard together.

During the pendency of the Special Civil Applications in the High Court an application was made to the R.T.A. jointly on behalf of the appellant and the private operators. A 'copy of that application is included as document no. 17 in Special Civil Application No. 575.O 1967. The joint application stated that the appellant and the private operators, with a view to end all litigation, had agreed to settle the matter on certain terms. One the terms was that the Special Civil applications filed were to. be withdrawn. The application for compromise was considered by the R.T.A. at its meeting held on September 10 and 11, 1965. The private operators including respondent No. 1 assured the R.T.A. that they would withdraw the petitions pending in the High Court. Upon 'such assurance the R.T.A. considered the matter at the meeting and after hearing the parties decided that the appellant who was granted substantive permits by its order dated May 10, 1965, would commence operation on the routes described in Sch. 'A' from November 1, 1965. In regard to the routes mentioned in Sch. 'B' for which also the appellant had been granted substantive permits by the order of the R.T.A. dated May 10, 1965, the appellant was to be permitted to coramence operation from July 1, 1965 and the private operators including respondent No. 1 were to be allowed to operate on these routes on temporary permits until June 30, 1967. This interval