

Supreme Court of India

Karnataka State Road Transport ... vs Karnataka State Transport ... on 13 February, 1987

Equivalent citations: AIR 1987 SC 711, JT 1987 (1) SC 473, 1987 (1) SCALE 346, 1987 Supp (1) SCC 648, 1987 (1) UJ 374 SC

Author: C R Misra

Bench: R Pathak, B Ray, R Misra

JUDGMENT C.J. Ranganath Misra, J.

1. These are appeals by special leave and are directed against a common judgment in two writ petitions disposed of on 6.4.1983 by a Division Bench of the Karnataka High Court. The appellant filed both the writ petitions before the High Court challenging in each of them the variation of the conditions of the permit held by each of respondents 2 and 3 on the inter-State route Bangalore to Madanapalli. The appellant, Transport Corporation plies its vehicles on a number of inter-State routes located within the State of Karnataka under the Kolar Pocket Scheme framed under Chapter IV-A of the Motor Vehicles Act. The route between Bangalore and Madanapalli located within the States of Karnataka and Andhra Pradesh respectively was an existing inter-State route by the time the modified scheme came into operation. There is no dispute that the major portion of the inter-State route lying within the State of Karnataka is covered by routes under the scheme. With effect from 10th of January, 1980, the modified scheme provided :

The State Transport Undertaking will operate the services on all routes to the complete exclusion of other persons except the following:

(a) xxx xxx xxx (b) xxx xxx xxx

(c) that operation of services by the permit holders who have already been granted permits by the Transport Authority on the date of publication of the modified scheme on inter-State routes which are included in the inter-State agreement of any other State provided that the operators on such routes shall not be entitled to pick up and set down passengers in such portion of the routes which overlaps on any portion of the notified routes.

When the respondents 2 and 3 applied to respondent No. 1 for variation of the conditions of their respective permits, the respondent Transport Authority gave a hearing to the applicants as also the objectors and the order of the Transport Authority dated July 28, 1962 indicates substantial compliance with the procedure prescribed under Section 57(8) of the Act. The appellant as also the respondents 2 and 3 are operating on the inter-State route and by the order of the State Transport Authority on the applications of the respondents 2 and 3 for variation of the conditions, more trips have been permitted.

2. In the Writ Petitions before the High Court two questions were formulated for consideration :

(1) Whether the Transport Authority has the power to grant variation of the condition of the inter-State Stage Carriage Permits by increasing the number of trips operated (with or without the increase of the number of vehicles covered by the stage carriage permit) overlapping the notified

routes of Kolar Pocket Scheme after its modification on 10.1.198 ;

and (2) Whether the Transport Authority has power to grant variation of the conditions of the inter-State stage carriage permits by increasing the number of trips operated (with or without the increase of number of vehicles covered by the stage carriage permit) overlapping the notified routes of the Kolar Packet Scheme beyond the maximum provided in any inter-State Agreement.

The Division Bench examined these two aspects at length and negatived both. Thus both the Writ Petitions were dismissed.

3. We have heard learned Counsel for the parties at length. Appellant's counsel relied upon the Constitution Bench judgment of this in *Adarsh Travels Bus Service and Anr. v. State of U.P. and Ors.* in support of his contention. Once a scheme under the Motor Vehicles Act came into operation no person other than the State Transport-Undertaking could operate in the notified area or the notified routes except as provided in the route itself. He also sought support from the said decision for his contention that after the scheme, private operators were totally prohibited from plying even on a part of the notified route or routes.

4. As noticed earlier, the scheme authorises the continued operation of the services by the existing permit holders subject to corridor restrictions. Having heard learned Counsel, we are of the view that the condition imposed in the scheme has not been violated. There is nothing said in the case of *Adarsh Travels*, which would support the appellant in the facts of the present case. Learned counsel also made grievance by alleging non-compliance of the provisions of the Motor Vehicles Act in the matter of granting extension of trips. The order of the State Transport Authority indicates that parties were heard and prima facie there was compliance of the requirements of the provisions of section 57(8) of the Act. Defects, if any, in the matter of extension of trips could be agitated before the Appellate forum under the Act. Before the High Court the main contention was confined to the argument relating to plying in contravention of the law based upon the scheme. We do not find any merit in the appeals and they are dismissed with costs.