

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 22nd DAY OF JANUARY 2001

B E F O R E

THE HON'BLE MR.JUSTICE H.RANGAVITTALACHAR

WRIT PETITION NOS.37440-441/2000(MV)

BETWEEN:

Fathima Begum,
Major,
W/o Md. Nazrulla Sharief,
S.B.Transports, Ali Mohalla,
Chitradurga District.

...PETITIONER

(By Sri P.R.Ramesh, Adv.)

AND:

1. Karnataka State Transport
Authority, M.S.Building,
Bangalore-1 by its Secy.,
2. The Secretary, Karnataka
State Transport Authority,
M.S.Building, Bangalore.
3. Smt. Anuradha Kamath,
W/o H.G.Muralidhar Kamath,
Arya Durgamma Street,
Shimoga.

...RESPONDENTS

(By Sri M.R.Venkatanarasimhachar for
applicant in I.A.1, Sri B.H.Satish, HCGP
for R.1-2, Sri A.S.Vishwanath, Adv for R.3)

These Writ Petitions are filed under Articles 226 and 227 of the Constitution of India praying to quash the resolution dated 10.3.2000 of the R1 vide Annexure-J.

These Writ Petitions coming on for Orders this day, the court made the following:-

ORDER

The Writ Petitioner has filed these two Writ Petitions challenging the resolution of the Karnataka State Transport Authority, dated 10.3.2000 in subject No.329/99 and 330/99 vide Annexure-J by which resolution it granted two permits for the 3rd respondent to operate the stage carriage services on the route Mangalore to Bellary and Bellary to Mangalore as per the schedule of times stated by it; The third respondent is a transferee of Permit Nos.2/65-66 and 3/65-66 and Permit No.33A and Permit No.33B held by Gajanana Motors Transport Company. It is

H.R.✓

contended by the Writ Petitioner that Gajanana Motors Transport Company was the holder of Permits Nos. 2/65-66, 3/65-66, 33/71-72: In so far as Permit No. 33/71-72 is concerned, the Transport Authorities varied the conditions of the permit ^{on} ~~by~~ an application filed by the permit holder by inclusion of 4 additional trips and this permit ^{later} was bifurcated ~~accordingly~~ as Permit Nos. 33(A)/71-72, 33(B)/71-72, 33(C)/71-72, 33(D)/71-72. ^{Afterwards} ~~later~~, at the request of the permit holder the Authorities permitted him to surrender two Permits i.e., Nos. 33(C)/71-72 and 33(D)/71-72. According to the petitioner even though two permits were surrendered, after coming into the force of the new Act by mis-representation, the 3rd respondent obtained permit for operating the services even in respect of surrendered permits. This action of the Transport Authority in reviving Permit Nos. 33(C)/71-72 and 33(D)/71-72 are void and liable to be quashed.

H.R.V

2. In my view, the petitions are liable to be rejected solely on the ground that the petitioner lacks locus-standi to challenge the grant made in favour of the 3rd respondent. The petitioner is unable to show how her legal right is affected in any way by the grant made in favour of the 3rd respondent. After all, she is a rival operator. The Supreme Court in Mithilesh Garg etc. vs Union of India, reported in AIR 1992 Supreme Court 443, relying on the decision in Jash Bhai Desai vs Roshan Kumar (AIR 1976 Supreme Court 578) has held that a "Rival Operator"; has no justification to complain against grant of permit under the New Motor Vehicles Act. Apart from the said decision, this Court has already rejected the Writ Petitions filed challenging the very grant made herein by another rival operator in Writ Petition NoS.17755-60/2000 decided on 16.10.2000, on ^{the very} ~~the~~ ground that ^{it} ~~the~~ the petitioner therein had no locus-standi to

H.R.✓

challenge the grant. Therefore, in my view, as stated petitions have to be rejected on the ground of petitioner having no locus-standi to challenge the order.

3. However, the rejection of these Writ Petitions will not come in the way of the petitioner filing a revision before the Karnataka State Transport Appellate Authority. In view of the decision of the Court in Sadashiva Reddy vs Lala Sheriff vide ILR 1999 KAR 666.

4. Hence, in the light of the discussion made above, these Writ Petitions are rejected on the ground that the petitioner is not an aggrieved person, reserving the right of the petitioner to approach the Karnataka State Transport Appellate Tribunal for the relief prayed for in these Writ Petitions. It is now represented by the learned Counsel appearing for

H.R.V

the petitioner that since he was prosecuting the remedy before this Court, the Revision Petition which she may file will be time barred. This submission is recorded. If the petitioner were to file the Revision Petition before the State Transport Appellate Tribunal within 10 days from today, the respondents agree not to oppose the same on the ground of limitation, and the Tribunal therefore shall decide the Revision on merits in accordance with law.

Sd/- JUDGE

gm