

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.23850 of 2011

ORDER:

The Karnataka State Road Transport Corporation filed this writ petition. It filed applications for grant of 5 pucca stage carriage permits on the inter-state route Bangalore to Madanapalli (via) Yelahanka, Vijayapura, Chintamani and Rayalpad and also for grant of 9 pucca stage carriage permits on the inter-state route Bangalore to Madanapalli (via) Hoskita, Chintamani and Rayalpad in the year 2006 before the Karnataka State Transport Authority, Bangalore and the same were granted by orders dated 22.02.2007, subject to grant of counter-signatures by respondent No.2. The distance involved in the first route is about 147 kilometres (for short, 'the KM'), out of which 134.1 KM is lying in Karnataka State and 12.9 KM is lying in Andhra Pradesh State, whereas in the second route it is 141 KM, out of which 128.1 KM is lying in Karnataka State and 12.9 KM is lying in Andhra Pradesh State. An inter-state agreement was entered on 18.03.1998 between the States of Karnataka and Andhra Pradesh to obtain permits on inter-state routes, the distance of which is lying 20 KM in the State of Andhra Pradesh irrespective of the length of the portion of routes in Karnataka State.

While so, the petitioner filed applications on 11.07.2007 before respondent No.2 for grant of counter-signatures for the portion of 12.9 KM lying in Andhra Pradesh State. When there was delay in considering the same, the petitioner filed W.P.No.15547 of 2009 for a suitable direction and this Court was pleased to pass an order on 21.08.2009 directing respondent No.2 to consider and pass orders according counter-signatures as

required under Section 88 of the Motor Vehicles Act, 1988 (for short, 'the Act'). Respondents 4 to 6 raised their objections before respondent No.2. After considering the applications of petitioner for counter-signatures and the objections, respondent No.2 dismissed the applications of petitioner by proceedings dated 06.03.2010. Aggrieved of the same, the petitioner filed an appeal in A.P.No.17 of 2010 before respondent No.1 and respondent No.1 confirmed the order of respondent No.2 by order dated 23.03.2011. Challenging the same, the present writ petition was filed.

The only ground raised in the present writ petition is when Clause II of IV Supplemental Agreement, as modified, allows introduction of stage carriage services within 20 KM, the orders passed by respondents 1 and 2 are not valid.

In order to consider the said issue, the modified clause of the Supplemental Agreement has to be seen and it reads as follows:

“It is agreed to allow the State Transport Undertakings of both states to introduce stage carriage services within 20 KMs from the border in the reciprocating state excluding the length of the route lying in the home state on single point tax in each case subject to counter signature by the respective State Transport Authorities.”

Section 88 of the Act deals with validation of permits for use outside region in which granted. The relevant sub-sections of Section 88 are as follows:

(1) Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region, and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned:

Provided that a goods carriage permit, granted by the Regional Transport Authority of any one region, for any area in

any other region or regions within the same State shall be valid in that area without the counter-signature of the Regional Transport Authority of the other region or of each of the other regions concerned:

Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometres, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport authority or the Regional Transport Authority of that other State:

Provided also that—

(a) where a motor vehicle covered by a permit granted in one State is to be used for the purposes of defence in any other State, such vehicle shall display a certificate, in such form, and issued by such Authority, as the Central Government may, by notification in the Official Gazette, specify, to the effect that the vehicle shall be used for the period specified therein exclusively for the purposes of defence; and

(b) any such permit shall be valid in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State.

(5) Every proposal to enter into an agreement between the States to fix the number of permits which is proposed to be granted or countersigned in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette and in any one or more of the newspapers in the regional language circulating in the area or route proposed to be covered by the agreement together with a notice of the date before which representations in connection therewith may be submitted, and the date not being less than thirty days from the date of publication in the Official Gazette, on which, and the authority by which, and the time and place at which, the proposal and any representation received in connection therewith will be considered.

(6) Every agreement arrived at between the States shall, in so far as it relates to the grant of countersignature of permits, be published by each of the State Governments concerned in the Official Gazette and in any one or more of the newspapers in the regional language circulating in the area

or route covered by the agreement and the State Transport Authority of the State and the Regional Transport Authority concerned shall give effect to it.

It is agreed by both the parties that pucca permits were granted by the Karnataka State Transport Authority, Bangalore under the provisions of Clause IV of the Inter-state agreement entered into between the States of Andhra Pradesh and Karnataka vide G.O.Ms.No.51 of Transport, Roads and Buildings (Tr.IV) Department, dated 18.03.1998, and the above rules were not covered by the said agreement. Respondent No.2 considered the amended clause in the agreement, the provisions of Section 88 of the Act, more particularly sub-sections (5) and (6), and also the applicable case law and noticed that no routes or trips have been identified for the extension of stage carriage services in the border areas either in the agreement dated 27.01.1992 or in the agreement dated 20.03.1998 and accordingly, the applications for counter-signature in respect of 14 permits were rejected. In arriving to such decision respondent No.2 took into consideration the decision of Supreme Court in **A.Venkatakrishnan v. State Transport Authority, Kerala**^[1]. When an appeal was preferred to respondent No.1, the appeal was also considered in the light of Section 88 of the Act and accordingly, upheld the order passed by respondent No.2.

A reading of Section 88 of the Act makes it clear that there should be mutual agreement between the States in respect of a route in order to claim counter-signature for a particular route. The routes or trips, for which the counter- signature is sought, were admittedly not agreed by both the States. A modification made to item II of IV Supplemental Agreement published in G.O.Ms.No.19 of Transport, Roads and Buildings (Tr.III)

Department, dated 24.01.1992, only facilitates the introduction of stage carriage services within 20 KM from the border, but it cannot be construed as an agreement between the parties in order to claim counter- signature, in the absence of any agreement with regard to the route between the two States. In view of the clear statutory provision, the argument advanced by the learned counsel for petitioner stating that the modification in the agreement dated 24.01.1992 enables the petitioner to obtain counter- signature cannot be accepted.

In the circumstances, the orders passed by respondents 1 and 2 are valid and they do not call for any interference and accordingly, this Writ Petition is dismissed. No order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

08.03.2016

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[\[1\]](#) 2004 (11) SCC 207