

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 418 OF 2019**

Khurram Khazi, Petitioner
Versus
The Regional Transport Authority,
Margao & 2 Others, Respondents

Mr. Balkrishna P. Sardessai, Advocate for the Petitioner.

Ms. Amira Razaq, Government Advocate for Respondent No. 2.

CORAM : C.V. BHADANG, J.

DATE : 25th June, 2019

ORAL ORDER:

The challenge in this petition, is to the order dated 06.02.2019, passed by the State Transport Appellate Tribunal (Tribunal, for short), in STAT Appeal No. 2/2016. By the impugned judgment, the Tribunal has dismissed the Appeal filed by the petitioner, under Section 89(1)(a) of the Motor Vehicles Act, 1988 (Act, for short). Consequently, the order dated 25.10.2016, passed by the Regional Transport Authority (RTA), granting the contract carriage permit of a yellow and black taxi to the respondent no. 3, has been confirmed.

2. In the year 2008, the petitioner learnt that an old taxi bearing no. GDT-1114 (Margao stand permit), belonging to one

Mr. Chari of Loutolim, was lying dormant for six years. Hence, on 17.09.2008, the petitioner applied for the contract carriage permit at the Margao stand. An advertisement came to be issued on 18.09.2009 and the petitioner applied for grant of permit on 24.09.2009. On the same date, the permit was granted in favour of the respondent no. 3, who was then a Member of the RTA. That was challenged by the petitioner before the Tribunal in STAT Appeal No. 4/2012, which was partly allowed by the Tribunal on 29.06.2016 and the matter was remanded to the RTA, to decide the application afresh in accordance with law. Thereafter, on 25.10.2016, a decision of the RTA was communicated to the petitioner, granting permit to respondent no. 3, which the petitioner challenged before the Tribunal in STAT Appeal No. 2/2016. That appeal came to be dismissed by the Tribunal on 03.01.2018, as being barred by limitation. That was challenged by the petitioner before this Court in Writ Petition No. 361/2018. This Court, by judgment and order dated 28.06.2018, allowed the petition and restored the STAT Appeal on the file of the Tribunal, to be decided in accordance with law. Thereafter, the Tribunal, by judgment and order dated 06.02.2019, has dismissed the Appeal. Hence, this petition.

3. I have heard Mr. Sardessai, the learned Counsel for the petitioner and Ms. Razaq, the learned Government Advocate for the respondent no. 2.

4. Mr. Sardessai, the learned Counsel for the petitioner has submitted that the impugned order, granting contract carriage permit to the respondent no. 3, is in violation of Section 74(3)(b) of the Act and Rule 62 of the Goa Motor Vehicles Rules, 1991 (Rules, for short), which requires a decision to be taken by circulation amongst the members of the RTA. It is submitted that the decision taken by drawal of lots is illegal. It is next submitted that the permit was earlier granted to the respondent no. 3, which order was set aside and now, the RTA has again granted permit to the respondent no. 3, which is clearly indicative of the fact that the RTA was influenced by the fact that the respondent no. 3 earlier, was a member of the RTA. It is submitted that the petitioner is unemployed and is entitled to the permit. Except this, there are no other contentions raised.

5. The learned Government Advocate has supported the impugned order. It is submitted that the order, granting permit to the respondent no. 3 has not been taken by drawal of lots, but, is taken in the presence of the members of the RTA. It is

pointed out that one of the members had also dissented and hence, the proposal was put to vote, in which, it was resolved to issue permit to the respondent no. 3 by majority vote of 2:1. It is submitted that the order cannot be said to be in breach of Section 74(3)(b) of the Act or Rule 62 of the Rules.

6. I have carefully considered the circumstances and the submissions made. At the outset, it is necessary to mention that there is nothing on record to show that the decision to grant permit is taken by drawal of lots. On the contrary, a perusal of the minutes dated 25.10.2016, show that it is taken in the meeting of the Authority and after one of the members had dissented, the proposal was put to vote, in which, by majority vote of 2:1, the permit was granted in favour of the respondent no. 3. It is evident that the provision for taking decision by circulation is an alternative to the holding of the meeting of the members in congression. Indeed, the decision in this case is taken in the presence of the members of the Authority and by majority, when the said decision was taken the respondent no. 3 was not the member of the RTA. The Authority has considered all the relevant factors, including that the father of the petitioner is already operating a yellow and black taxi. In fact, it was claimed by the petitioner before the Authority that he has

no source of income. Mr. Sardessai, the learned Counsel for the petitioner did not dispute that Section 74(3)(b) of the Act requires financial stability of the applicant, as one of the relevant circumstances for grant of the permit.

7. The Tribunal has found that the RTA had decided to fix a criteria for grant of the permit, namely, the availability of the vehicle, experience and the financial position, including of the background of the applicant and had then decided to grant permit to the respondent no. 3. Such a decision taken on the basis of the objective circumstances and which is not shown to be in violation of any of the provisions of the Act or the Rules framed thereunder and which decision is confirmed by the Tribunal in Appeal, does not call for interference in the exercise of supervisory jurisdiction of this Court, under Article 227 of the Constitution of India. The petition is accordingly dismissed, with no order as to costs.

C. V. BHADANG, J.

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