

CASE NO.:
Appeal (civil) 7305 of 2003

PETITIONER:
Kanchan and Ors.

RESPONDENT:
State Transport Appellate Tribunal and Ors.

DATE OF JUDGMENT: 17/01/2006

BENCH:
ARIJIT PASAYAT & TARUN CHATTERJEE

JUDGMENT:
JUDGMENT

ARIJIT PASAYAT, J.

Challenge in these appeals is to a composite order of a learned single Judge of the Allahabad High Court dismissing the writ petitions filed by the present appellants. The basic question before the High Court was whether the permits granted to the appellants by the State Transport Authority, U.P. Lucknow (in short 'the S.T.A.') could be legally sustained. It is to be noted that on a revision filed by the non-official respondents, the State Transport Appellate Tribunal, U.P., Lucknow (in short 'the Tribunal') set aside the grant of permits and held that the action of STA was mala-fide; it had acted in clear contravention of the statutory requirements and, therefore, the grant of permit was an exercise which had no legal sanction. This order of the Tribunal was the subject matter of challenge in the writ petitions. The High Court essentially came to record three findings; (a) in respect of notified routes, the permits could not have been granted; (b) action of the STA in taking over the route was impermissible, mala-fide and (c) the exercise of power by the STA in granting the permits was equally unsustainable, being mala-fide.

In support of the appeals, learned counsel for the appellants submitted that the High Court did not take note of the fact that the revision petition filed before the Tribunal was not maintainable as the existing operators who had filed the revision petition, has no locus-standi to file the same. It was further submitted that the High Court proceeded on an erroneous impression as if the routes were notified routes. The STA, in exercise of power under Section 68(3)(b) of the Motor Vehicles Act, 1988 (in short 'the Act') had taken over the power of grant of permits and in fact in bona fide exercise of that, directed issue of permits. It was pointed out that there was no specific challenge in the revision petition before the Tribunal about the so called infirmities which the High Court has highlighted. It was in essence, submitted that the exercise of jurisdiction by the Tribunal was bone-fide and there was no reasonable ground for interference by the Tribunal, as affirmed by the High Court.

In response, Mr. Rakesh Dwivedi, learned senior counsel for the respondents submitted that the whole exercise clearly smacked of non-transparency and mala-fides. It was pointed out that 48 permits were granted and in some cases, the files which were produced before the Tribunal indicated that even application for grant of permits were not there. Further, the fact that the permits were granted on the very same day on which the STA purportedly took over the power to grant permits in exercise of powers under Section 68(3)(b) leaves no manner of doubt that the STA as acting contrary to law. It is pointed out that the even assuming that there was any Resolution, which according to the learned counsel for the respondents is also not a fact, there was no notification about the taking over of the jurisdiction by the STA. It is also not clear as to how the applications could be made to the STA much before it assumed power in exercise of powers

under Section 68(3)(b) of the Act. Finally, the applications are to be made to RTA and one does not know under what circumstances the applications were made to the STA.

We do not consider this to be a fit case for interference. The findings of the High Court about the mala-fides of the STA are clearly borne out from the records seen by the Tribunal. It is to be noted that the Tribunal and the High Court have recorded categorical findings that there were not even applications for grant of permits in such cases. It baffles one as to how the permits could be granted even without application. The STA for reasons best known to it, did not produce all the 48 files relating to the grant of permits. A plea was taken that some of the files were taken by the vigilance authorities inquiring into the allegations of corruption. Be that as it may, the fact remains that in some cases elaborated by the Tribunal and the High Court, the applications were not there. The stand of learned counsel for the appellants that relief may be denied to only those persons, is clearly unacceptable. While deciding the question of mala-fides, the very fact that in certain cases, the authorities have acted without application of mind, is itself sufficient to attach vulnerability to the action. Therefore, we do not think it necessary to go into the other questions and the appeals are dismissed. All the interim orders consequently passed stand vacated. The contempt proceedings initiated shall stand quashed.

An application for intervention has been filed taking a stand that certain observations made by this Court in U.P. State Road Transport Corporation through its Chairman v. Omaditya Verma and Ors., [2005] 4 SCC 424 are not correct. We do not consider it necessary to deal with that question in this application. The application for intervention is, therefore, rejected.