

PETITIONER:

M/S. BUNDELKHAND MOTOR TRANSPORT COMPANY, NOWGAON

Vs.

RESPONDENT:

BEHARI LAL CHIAURASIA AND ANOTHER

DATE OF JUDGMENT:

17/08/1965

BENCH:

SHAH, J.C.

BENCH:

SHAH, J.C.

GAJENDRAGADKAR, P.B. (CJ)

WANCHOO, K.N.

HIDAYATULLAH, M.

SIKRI, S.M.

CITATION:

1966 AIR 455

1966 SCR (1) 485

CITATOR INFO :

F 1966 SC1318 (6)

R 1978 SC 215 (34)

R 1988 SC1676 (8)

ACT:

Motor Vehicles Act (4 of 1939), s. 63 and Central Provinces and Berar Motor Vehicles Rules, 1940, r. 63 made under s. 68-Scope of.

HEADNOTE:

The appellant had a permit under the Motor Vehicles Act, 1939, to apply stage carriages on an inter-regional route. The permit was granted by the Regional Transport Authority, Jabalpur, and was countersigned by the Regional Transport Authority of the Rewa region. The appellant applied to the R.T.A., Jabalpur, for renewal of the permit and the permit was renewed. The appellant also applied for countersignature of the renewal, to the same authority, under rule 63, framed under s. 68 of the Act, for plying in the Rewa region; but the application was rejected. The appellant then applied to the R.T.A., Rewa, to countersign the renewed permit. The lesser offences were chosen to bypass the Sessions Judge who had permit, and that authority granted countersignature of the permit overruling the objections of the first respondent. The first respondent therefore moved the High Court and the High Court quashed the order of the R.T.A., R.T.A. Rewa.

In the appeal to this Court,

HELD : The Legislature has, by providing in the opening part of a. 63(1) of the Act, "Except as may otherwise be prescribed", made the provision subject to the rules framed under s. 68, and a rule conferring authority to countersign the permit in so far as it relates to another region, upon the R.T.A. who issues the permit is made, in r. 63(a). The power to frame the rules is expressly granted by s. 68, and the exercise of that power for the purpose of carrying into effect the provisions of the Act, is not subject to any other implied limitations. Therefore r. 63 must prevail over s. 63. [491 C-E]

When the R.T.A., Jabalpur, renewed the permit for the Jabalpur region, region but declined to countersign the permit, in exercise of the power conferred by r. 63 in respect of the route in the Rewa region, the conclusion is infusible that the Authority granted the permit operative only in the Jabalpur region. The permit being only a regional permit, there was no part of the route for which the R.T.A., Rewa, could, by countersigning the permit extend it so as to make it operative in the Rewa region. In any event, as one R.T.A. is not competent to sit in judgment over the discretion exercised by another R.T.A., upon whom the power is conferred in regard particular matter under the statute, the order of the R.T.A., the R.T.A., Rewa, countersignature in the teeth of the earlier order of the R.T.A., Jabalpur, was invalid. But, that did not affect the validity of the permit granted by the R.T.A., Jabalpur, for the Jabalpur region. [491 F; region [491 F; 492 D-G]

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 51 of 65.

Appeal from the judgment and order dated November 11, 1964 of the Madhya Pradesh High Court in Misc., . Petition No. 238 of 1964.

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G. S. Pathak and A. G. Ratnaparkhi, for the appellant.

B. R. L. Iyengar, Manmohan Krishnan Kaul, S. K. Mehta and K. L. Mehta, for the respondent No. 1.

S. V. Gupte, Solicitor-General and I. N. Shroff, for the intervener.

The Judgment of the Court was delivered by

Shah, J. In 1957 the Regional Transport Authority, Jabalpur granted to Messrs. Bundelkhand Motor Transport Company, Nowgaon-hereinafter called 'the appellants permit under the Motor Vehicles Act, 1939 to ply stage carriages on an inter-regional route-Jabalpur to Chhatarpur-in the State of Madhya Pradesh, and the permit was countersigned by the Regional Transport Authority, Rewa within whose jurisdiction a part of the route lay. The permit was renewed in 1960 for a period of three years expiring on August 9, 1963 by the Regional Transport Authority, Jabalpur, and it was countersigned by the Regional Transport Authority, Rewa. On June 7, 1963 the appellant applied to the Regional Transport Authority, Jabalpur for renewal of the permit, and by order dated December 6, 1963 the permit was renewed for the period ending February 9, 1966. By its application dated December 7, 1963 the appellant requested the Regional Transport Authority, Rewa to countersign the permit so renewed. This application was published as required by s. 57 read with s. 63(3) of the Act on January 2, 1964. Three motor transport operators, amongst whom was the first respondent Behari Lal Chaurasia, objected to the grant of counter-signature to the permit, inter alia, on the ground that the application was barred by the law of limitation prescribed by s. 58(2) proviso one, and the Regional Transport Authority, Rewa had no power to grant counter-signature of renewal after the expiry of that period. The Regional Transport Authority, Rewa overruled the objection, and by order dated March 17, 1964 granted counter-signature of the permit.

The first respondent then applied to the High Court of Madhya Pradesh under Arts. 226 & 227 of the Constitution for a writ quashing the order dated March 17, 1964 passed by the

Regional Transport Authority, Rewa. In the view of the High Court an application for renewal of the permit and an application for renewal of counter-signature must be made within the period prescribed by S. 58(2) of the Act, and the appellant having failed to apply within that period, the application of the appellant

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for renewal of the counter-signature was barred and the Regional Transport Authority, Rewa had no jurisdiction to countersign the permit renewed by the Regional Transport Authority, Jabalpur. The High Court accordingly quashed the order dated March 17, 1964. With certificate granted by the High Court under Art. 133(1)(c) of the Constitution, the appellant has appealed to this Court.

It may be convenient in the first instance to refer to the material provisions of the Motor Vehicles Act 4 of 1939 which have a bearing on the validity of the order dated March 17, 1964. Section 45 of the Motor Vehicles Act provides that every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles. By the proviso to s. 45 it is enacted that where it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies. Section 47 sets out the procedure of the Regional Transport Authority in considering applications for stage carriage permits and prescribes the matters which may be taken into account by that officer in granting or rejecting the applications for stage carriage permits. By s. 48 it is provided that subject to the provisions of s. 47, a Regional Transport Authority may, on an application made to it, grant a stage carriage permit, in accordance with the application or with such modifications as it deems fit, valid for a specified route or routes or specified area. Sub-section (3) of s. 48 authorises the Authority to grant a stage carriage permit subject to one or more of the conditions specified therein. Section 57 prescribes the procedure in "applying for and granting permits". An application for a stage carriage permit or a public carriers permit shall, it is provided by sub-s. (2), be made not less than six weeks before the date on which it is desired that the permit shall take effect, or, if the Regional Transport Authority appoints dates for the receipt of such applications, on such dates. By sub-s. (1) of s. 58 it is provided that a stage carriage permit or a contract carriage permit other than a temporary permit shall be effective without renewal for such period not less than three years and not more than five years, as the Regional Transport Authority may specify in the permit. Sub-section (2) enacts that a permit may be renewed on an application made and disposed of as if it were an application for a permit, provided that the application for the renewal of a permit shall be made (a) in the case of a stage carriage permit or a public

L7Sup.165-3

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carrier's permit, not less than sixty days before the date of its expiry; and (b) in any other case, not less than thirty days before the date of its expiry. By sub-s. (3) the Authority is, notwithstanding anything contained in the first proviso to sub-s. (2), authorised to entertain an application for the renewal of a permit after the last date specified in the said proviso, if the application is made

not more than fifteen days after the said last date. Section 63 deals with inter-regional and inter-State permits. The material parts of the section are as under :-

(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

(2) A Regional Transport Authority when counter-signing the permit may attach to the permit any condition which it might have imposed if it had granted the permit, and may likewise vary any condition attached to the permit by the Authority by which the permit was granted.

(3) The provisions of this Chapter, relating to the grant, revocation and suspension of permits shall apply to the grant, revocation and suspension of counter-signatures of permits

Provided

Section 68 by the first sub-section authorises the State Government to make rules for the purpose of carrying into effect the provisions of Ch. IV.

A stage carriage permit granted by a Regional Transport Authority therefore remains effective without renewal for a period of -not less than three years and not more than five years as the Authority may specify in the permit. A person desiring to obtain renewal of the permit must, in the case of a stage carriage permit, make an application not less than sixty days before the date of its expiry, and the Authority has to deal with the application for renewal as if it were an application for a permit. The

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procedure for obtaining renewal is assimilated to the procedure prescribed for an application for a first permit, but in order that there may be no hiatus the Legislature has provided that the application for renewal shall be made not less than sixty days before the date of its expiry, it being assumed that the Authority would be able in the interval to publish the application, and to hear objections to the grant of renewal. Except as may be otherwise prescribed, an inter-regional permit by a Regional Transport Authority in any region, is not valid unless the permit is countersigned by the Regional Transport Authority of that other region. The provisions of Ch. IV relating to the grant, revocation and suspension of permits apply to the grant, revocation and suspension of counter signatures of permits.

The High Court held that an application for renewal of countersignature has also to be made not less than sixty days before the date of its expiry and if no such application is made, the Regional Transport Authority has no power to countersign the permit, and on that ground discharged the order issued by the Regional Transport Authority, Rewa. it was urged on behalf of the appellant that by s. 63(3) the provisions contained in Ch. IV relating to grant, revocation and suspension of permits are

made applicable to grant of countersignatures of permits, and to the application for countersignature of an inter-regional permit the provisions relating to renewal contained in s. 58 have no application. Counsel for the respondent submitted that a permit granted by an Authority competent under s. 45 of the Act is an integrated permit in respect of a unitary route, and until the permit is countersigned by the Authority in the other region, it is wholly ineffective. We do not think it necessary to express any opinion on the contentions advanced by the parties on this part of the case, for we, are of the view that this appeal may be decided on the interpretation of the rules made by the State Government in regard to grant of permits and countersignature of inter-regional permits. Under the Motor Vehicles Act, 1939 the Central Provinces and Berar Motor Vehicles Rules, 1940 were made by the appropriate authority and it is common ground that those rules were at the material time in operation in the two regions--Jabalpur and Rewa-in the State of Madhya Pradesh, with which we are concerned. By r. 61, it was provided :

"(a) Application for the renewal of a permit shall be made, in writing to the Regional Transport Authority by which the permit was issued not less than two

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months, in the case of a stage carriage permit or a public carrier's permit, and not less than one month in other cases, before the expiry of the permit, and shall be accompanied by Part A of the permit. The application shall state the period for which the renewal is desired and shall be accompanied by the fee prescribed in rule 55.

(b) The Regional Transport Authority renewing a permit shall call upon the holder to produce Part B or Parts B thereof, as the case may be, and shall endorse Parts A and B accordingly and shall return them to the holder."

Rule 62, by cl. (a) provided

"Subject to the provisions of rule 63, application for the renewal of a countersignature on a permit shall be made in writing to the Regional Transport Authority concerned and within the appropriate periods prescribed in rule 61 and shall, subject to the provisions of sub-rule (b), be accompanied by Part A of the permit. The application shall set forth the period for which the renewal of the counter-signature is required."

Rule 63, by cl. (a), provided

"The authority by which a permit is renewed may, unless any authority by which the permit has been countersigned (with effect not terminating before the date of expiry of the permit) has by general or special order otherwise directed, likewise renew any countersignature of the permit (by endorsement of the permit in the manner set forth in the appropriate Form) and shall, in such case, intimate the renewal to Such authority."

Rule 61 substantially incorporates the provisions of sub-s. (2) of S. 58 and the proviso thereto, and makes certain incidental provisions. By cl. (a) of r. 62 it is provided that the application for renewal of counter-signature has to

be made within the period prescribed in r. 61 i.e. it has to be made not less than two months before the expiry of a stage carriage permit or a public carrier's permit. By r. 63, power is conferred upon the Authority which grants an inter-regional permit under the first proviso to s. 45, (unless by any general or special order the other Authority has directed otherwise) to countersign the permit

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so as to make it valid for the other region covered by the route. Therefore, even though by s. 63 the power to countersign the permit is entrusted to the Regional Transport Authority of the region in which the remaining part of the route is situate, by r. 63 the power to countersign may also be exercised by the Authority who grants the original permit. The Regional Transport Authority, Jabalpur was therefore competent to grant renewal of the permit and was also competent by virtue of rule 63 to countersign the permit so as to make it valid even for that part of the route which lay in the Rewa region.

The Legislature has by providing in the opening part of sub-s. (1) "Except as may be otherwise prescribed" made the provision subject to the rules framed under s. 68, and a rule conferring authority to countersign the permit in so far as it relates to another region upon the Authority who issues the permit is made. The validity of a section which is made subject to the provisions of the rules to be framed by a piece of delegated legislation is not challenged before us. Rule 63 must therefore prevail over the direction of the statute. There is no substance in the contention raised by counsel for the appellant that the State Government had no power to frame rule 63. Power to frame rules for carrying into effect the provisions of Ch. IV is expressly granted to the State Government by s. 68, and the exercise of that power, if it be utilised for the purpose of carrying into effect the provisions of the Act, is not subject to any other implied limitations.

In the present case an application for counter-signature of renewal of the permit was made to the Regional Transport Authority, Jabalpur, and it was rejected. It is unfortunate that the application and the reasons in support of the order of the Authority are not on the record of the case. But it appears clear from the following recital in the order of the Regional Transport Authority, Rewa, that the application for countersignature was made to the Authority at Jabalpur and it was rejected

"Need for moving this authority for getting the counter-signature renewed certainly arose when the R.T.A. Jabalpur declined to sanction the renewal of counter-signature."

Truth of this recital is accepted by counsel at the Bar. The result therefore is that an application was made under s. 63 read with s. 58(2) to the Regional Transport Authority, Jabalpur for renewal of the permit and also for counter-signature of

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the renewal of the permit. The Regional Transport Authority, Jabalpur granted renewal of the permit, but declined to grant countersignature of the permit, insofar as it related to the Rewa region. Under S. 63 a permit granted by the Regional Transport Authority of one region is not valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region. The clearest implication of this provision is that even an inter-regional permit when granted is valid for the region over which the Authority granting the permit has jurisdiction, and when it is countersigned by the Regional

Transport Authority of the other region, the permit becomes valid for the entire route. We are unable to agree with counsel for the respondent that the permit has no validity whatever until it is countersigned by the Regional Transport Authority of the other region.

The Regional Transport Authority, Jabalpur renewed the permit for 'the Jabalpur region, but declined to countersign the permit in exercise of the power conferred by r. 63 framed under s. 68 of the Motor Vehicles Act in respect of the route within the Rewa region. The conclusion is inevitable that the Authority granted the permit only operative between Jabalpur and the point at which the route entered the Rewa region : in substance, he merely granted a regional permit limited to the route within the Jabalpur region. The per,-nit being a regional permit and not an inter-regional permit, there was no part of the route for which the Regional Transport Authority, Rewa could by countersigning the permit extend it so as to make it operative within the Rewa region. In any event as one Regional Transport Authority is not competent to sit in judgment over the discretion exercised by any other Regional Transport Authority upon whom the power is conferred in regard to a particular matter under the statue, the order of the Regional Transport Authority, Rewa granting countersignature in the teeth of the earlier order of the Jabalpur Authority was invalid.

We therefore confirm the order of the High Court, but for different reasons. We deem it, however, necessary to make it clear that our order does not affect the validity of the permit -ranted by the Regional Transport Authority, Jabalpur, insofar as it relates to the route between Jabalpur and the point of entry of the route into the Rewa region. The appellant will pay the costs to the respondent in this appeal.

Appeal dismissed.