

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 4389 of 2000

Between:

- 1 APSRTC, Rep. by its Managing Director,
Mushirabad, Hyderabad.
- 2 The Regional Manager, APSRTC,
Srikakulam.

..... PETITIONERS

AND

- 1 State Transport Appellate Tribunal, Rep. by its Presiding Officer, AP,
Hyderabad.
- 2 The Regional Transport Authority, Rep. by its Secretary,
Srikakulam.
- 3 K.Prakash Raju, Raja Engineering Works,
Door No.3-126, Chipurupalli Road,
RAJAM, Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, especially in the nature of a Writ of certiorari, calling for the records relating to the impugned order dt 21.1.2000 made in AP, No.423/98, State Transport Appellate Tribunal, AP, Hyderabad setting aside the order in item No.37 in Rc.No.9259/A1/97, dt.26-5-1998 of the Regional Transport Authority, Srikakulam and directing issue of a pucca stage carriage permit to 3rd respondent on the so-called mofussil route, Bomminaiduvalasa to Rajam; and quash the same as being illegal, without jurisdiction and invalid.

Counsel for the Petitioners: KUM.B.G.UMA DEVI

Counsel for the Respondents 1 & 2.: GP FOR TRANSPORT

Counsel for the Respondent No.3: Smt. M.Vinobha Devi.

The Court made the following :

ORDER:

This is a writ petition filed by the APSRTC questioning the orders passed by the 1st respondent-State Transport Appellate Tribunal in A.P.No.423 of 1998, dated 21.1.2000.

The 3rd respondent herein was the applicant before the Regional Transport Authority, Srikakulam for grant of a pucca Stage Carriage permit on the mofussil route, Bomminaiduvalasa to Rajam. The length of the route is 13.3. kms. It was the case of the appellant-corporation that it overlaps the notified route for more than 8 Kilometres and the proposed route, for which the 3rd respondent applied, is not formulated by the Government. The primary authority i.e., Regional Transport Authority, by its proceedings dated 26.5.1998, rejected to grant permit by recording a finding that the APSRTC is serving the entire route and also private buses are plying, if any further grant of a permit to private operator will lead to congestive competition. As against the same, the 3rd respondent preferred an appeal before the State Transport Appellate Tribunal. The Appellate Tribunal by recording a finding that on the proposed route, for which the permit was sought for, the APSRTC itself is plying its buses in the entire route and also private buses are plying and it would not amount to carving out a new route against the provisions of section 68(3)(ca) of the Motor Vehicles Act, 1988 (for short 'the Act').

It is submitted by the learned Counsel on behalf of the petitioner-corporation that the formulation of the route under Section 68(3)(ca) of the Act is a route that is different from the route formulated by the scheme under Section 99 of the Act and inasmuch as the scheme is not formulated even for the route now proposed by the 3rd

respondent, the permit cannot be given to him as the APSRTC is also plying on the same routes. When the matter has come up for hearing, there is no representation on behalf of the respondents. The learned Counsel for the petitioner-Corporation has placed reliance on the judgment of this Court reported in ***N. Swarnalatha Vs. Managing Director, APSRTC, Hyderabad and others.***

From the reading of the provisions under Section 68(3)(ca) of the Act, it indicates the route contemplated by the scheme formulated under section 99 of the Act. Merely because APSRTC is plying buses, it cannot be said that it is a formulated route. Inasmuch as it is not notified as per the provisions of Section 68(3)(ca) of the Act, the 3rd respondent is not entitled for the pucca permit as sought for. The very reasoning assigned by the appellate authority is contrary to the Division Bench judgment of this Court referred to supra. In that view of the matter, the order of the Tribunal is liable to be set aside.

Accordingly, the writ petition is allowed. No order as to costs.

30th June, 2005

Nn.

Copy to:

- 1 The Presiding Officer, State Transport Appellate Tribunal, AP, Hyderabad.
- 2 The Secretary, Regional Transport Authority, Srikakulam.
3. Two C.Cs to G.P., for Transport, High court Buildings, High Court of A.P., Hyderabad (O.U.T)
4. Two C.D. copies.