

PETITIONER:

K. A. NATARAJAN ETC.

Vs.

RESPONDENT:

M. NAINA MOHD. & ORS. ETC.

DATE OF JUDGMENT:

03/02/1970

BENCH:

HIDAYATULLAH, M. (CJ)

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HIDAYATULLAH, M. (CJ)

SHELAT, J.M.

MITTER, G.K.

RAY, A.N.

DUA, I.D.

CITATION:

1971 AIR 431

1970 SCR (3) 495

1970 SCC (1) 473

ACT:

Constitution of India, 1950, Art. 136-Appeal against interlocutory order-Practice of Supreme Court.

HEADNOTE:

The Regional Transport Authority granted to the respondent a permit to operate a bus on a route. The grant was set aside by the State Transport Appellate Tribunal on appeal filed by another applicant. The order of the S.T.A. was quashed by a Single Judge of the High Court in a writ petition filed by the grantee from the R.T.A. When the matter went before the Letters Patent Bench it was observed that since only the grantee from the R.T.A. had a valid permit it was not possible to grant any permit to the appellant before the S.T.A. pending the disposal of the Letters Patent Appeal as only one operator could be allowed on the route.

In the petition for special leave to appeal to this Court under Art. 136 against the interlocutory order, on the question of the jurisdiction of the High Court to recognise the grantee from the R.T.A. when his permit was cancelled by the S.T.A.,

HELD: This Court would not go into the matter at this stage because the appeal itself was pending before the High Court and all that the Bench had done was to give effect to the order of the Single Judge pending disposal of the appeal. [497 A-B]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Petitions for special leave to Appeal (Civil) Nos. 2430, 2431, 2436 to 2438, 2442 2443. 2445, 2446, 2472 and 2480 of 1969 and 3 of 1970.

From the orders dated December 8, 1969 of the Madras High Court in Civil Misc. Petitions Nos. 15375 of 1969 etc. in Writ Appeals Nos. 519 of 1969 etc.

K. K. Venugopal and R. Gopalakrishnan, for the petitioner (in S.L.P. Nos. 2430, 2431 and 2438 of 1969).

S. Mohan Kumaramangalam, M. K. Ramamurthi, G. Ramaswamy, Shyamala Pappu and Vineet Kumar, for the petitioners (in S.L.P. No. 2436 of 1969).

M. K. Ramamurthi, G. Ramaswamy, Shyamala Pappu and Vineet Kumar, for the petitioner (in S.L.P. No. 2437 of 1969).

A. S. Nambiar, for the petitioner (in S.L.Ps. Nos. 2442, 2443 and 2472 of 1969).

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M. C. Setalvad, V. Subramanian and K. Jayaram, for the petitioner (in S.L.P. Nos. 2445, 2446 and 2480 of 1969 and 3 of 1970).

Madan Mohan for respondent No. 1 (in S.L.P. Nos. 2430, 2431, 2436, 2437, 2438, 2442, 2443 and 2472 of 1969).

O. C. Mathur, for respondent No. 1 (in S.L.P. No. 2445 of 1969).

R. Gopalakrishnan, for respondent No. 1 (in S.L.P. No. 2480 of 1969).

K. Thirumalai, A. T. M. Sampath and E. C. Agrawala, for respondent No. 1 (in S.L.P. No. 3 of 1970).

The Order of the Court was delivered by

Hidayatullah, C.J. These are petitions for special leave against the orders of the Division Bench of the High Court of Madras by which the High Court has ordered that the permits granted by the Regional Transport Authority will operate and not those which the State Transport Appellate Tribunal in appeal granted.

The facts may be stated, taking as a sample, Special Leave Petition No. 2430 of 1969. The original grantee of the permit by the Regional Transport Authority may be described as 'A'. The date of the grant was November 20, 1966. On appeal by the respondent who may be described as 'B', the State Transport Appellate Tribunal cancelled the grant made to A by the Regional Transport Authority. This was on July 18, 1967. A writ petition was thereupon filed by A and it was allowed by the learned single Judge on November 4, 1969 and the order of the State Transport Appellate Tribunal was quashed. When the matter went before the Letters Patent Bench, it was observed that in view of the fact that only the grantee of the Regional Transport Authority had a valid permit, it was not possible to grant any permit to B who was recognised by the State Transport Appellate Tribunal. They followed an earlier ruling of the court and restricted the grant pending disposal of the Letters Patent appeal to the grantee of the Regional Transport Authority who alone was permitted to operate on the route. It appears that only one operator could be allowed on this route, because of a s. 47(3) determination.

In these petitions for special leave which are ex facie against the orders made in interlocutory proceedings, the attempt is to get the permits restored to B. It is claimed that this involves a question of jurisdiction and that question is whether the High Court could recognise A the grantee of the Regional Transport Authority when his permit had been cancelled by the State Transport Appellate

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Tribunal. We think that these are matters into which this Court cannot be invited to go under Art. 136 of the Constitution, because the appeal itself is pending before the High Court -and what the High Court has done is to give effect to the order of the learned single Judge. In other words, the Letters Patent Bench has not attempted to pass any special order of its own staying the operation of the decision of the learned single Judge. We think it would be wrong for us to interfere at this stage. It may be that the

question may come up in some other form before us when the appeals from the Letters Patent decision are brought before this Court. If and when this happens, we may find it convenient to express our opinion on the question of jurisdiction of the High Court to go into such matters in appeal or in original writ petitions. Beyond this, we do not wish to express any opinion, one way or the other, at this stage. We accordingly order the dismissal of these special leave petitions, reserving to the petitioners the right to raise such questions as may legitimately be raised when they choose to file appeals against the decision of the Letters Patent Bench. Stay granted by this Court is vacated.

V.P.S.

Special Leave Petitions

dismissed.

SupCI/70-2

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