

PRAKASH CHANDRA SAHU

A

v.

STATE TRANSPORT AUTHORITY AND ORS.

MARCH 3, 1997

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

B

Motor Vehicles Act, 1988:

S.87—Permanent Stage Carriage Permit granted under 1939 Act—Renewal of—Permit expired after coming into force of 1988 Act—Application for renewal of permit—Held, in view of decision of this Court if any permit was renewed under the provisions of 1988 Act, the renewal was to be treated to be a temporary permit u/s. 87; and before expiry thereof parties would make an application afresh and seek permit in accordance with law—If the appellant has any right for grant of permit, these same has to be in accordance with law—Necessary application which comes to be made in accordance with law should be disposed of by the S.T.A. as per the provisions of the 1988 Act.*

C

D

**Gajraj Singh & Ors. v. State Transport Appellate Tribunal, [1997] 1 SCC 650, relied on.*

E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1828 of 1997.

From the Judgment and Order dated 9.8.96 of the Orissa High Court in O.J.C. No. 3073 of 1995.

F

A.K. Panda for the Appellant.

A.K. Ganguli, K.N. Tripathy, D. Mohanty, J.R. Das and P.N. Misra for the Respondents.

The following Order of the Court was delivered :

G

Leave granted.

This appeal by special leave arises from the order dated August 9, 1996, made by the Division Bench of the Orissa High Court in OJC No. 3073/95.

H

A The admitted position is that at one point of time the appellant had a permanent stage carriage permit operating on the inter-State route, viz., Peralakhemundi to Berhampur via Chatrapur and Garabandha. After the Motor Vehicles Act, 1988 came into force, the appellant filed an application for renewal of the permit and the dispute arose whether he is entitled to renewal of the permit. Since, admittedly, the permit granted under Act 4 of 1939 expired after the 1988 Act came into force, he was to apply afresh under the 1988 Act. Earlier when he had filed a Writ Petition, OJC No. 3421/93, the High Court had directed reconsideration of the application for renewal and also the application of the contesting respondents, after decision was taken on the application of the petitioner therein. Admittedly, the State Transport Authority had considered their applications and rejected the application for renewal and granted fresh permit to the third respondent. On a clarification sought by the contesting respondent, the High Court had pointed out that the judgment was not intended to have the permit granted to the contesting respondent cancelled; nonetheless the application of the appellant would be considered as and when need arose.

Shri A.K. Panda, learned counsel for the appellant, contends that in view of the decision of this Court in *Gajraj Singh & Ors. v. State Transport Appellate Tribunal*, [1997] 1 SCC 650, in particular paragraph 62, the appellant is entitled to apply afresh and to be considered by the authorities in accordance with law. He has stated that he had filed an application for renewal on 4.11.1996 for grant of permanent licence. In view of the above decision of this Court, if any permit was renewed under the provisions of the 1988 Act, the renewal was to be treated to be a temporary permit under Section 87 of that Act and that before expiry thereof, parties were directed to make an application afresh under the 1988 Act and seek permit thereunder in accordance with law. The direction issued by the High Court is not inconsistent with the above judgment of this Court. Under those circumstances, if the appellant has any right for grant of permit, the same has to be in accordance with law. Necessary application which comes to be made in accordance with law should be disposed of by the S.T.A. as per the provisions of the 1988 Act.

The appeal is accordingly dismissed with the above observations. No costs.

R.P.

Appeal dismissed.