

CUMBUM ROADWAYS (P) LTD.

v.

BALAGURU BUS SERVICE PVT. LTD. & ORS.

December 10, 1976

[A. N. RAY, C.J., M. H. BEG AND V. R. KRISHNA IYER, JJ.]

Motor Vehicles Act 1939 and Motor Vehicles Rules—Whether consideration of grace, charity and compassion can be taken into account while granting permits—Whether a candidate getting lesser marks can be preferred.

The appellant and the respondent applied for a permit of stage carriages. The respondent secured higher marks than the appellant. The Road Transport Authority preferred the appellant on the compassionate ground that the respondent already had another permit on a route which was partly overlapping over the route in question. On an appeal the Appellate Tribunal set aside the order of the Transport Authority and granted the permit to the respondent.

Dismissing the appeal,

HELD : Permits cannot be equated with distribution of patronage. Public interest is at stake when public transport services are operated. The scheme of the Motor Vehicles Act and the Rules is that he who can serve the travelling public best is to be chosen as the permit-holder. Considerations of grace, charity and compassion at the expense of public interest are an act of unfairness to the Act. [408B-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 424 of 1971.

Appeal from the Judgment and Order dated the 22-2-1971 of Madras High Court in W.P. No. 3125 of 1970.

M. Natesan, and (Mrs). *S. Gopalakrishanan*, for the Appellant.

K. S. Ramamurthi, *A. T. M. Sampath*, *M. M. L. Srivastava* and *E. C. Agarwala*, for Respondent No. 1.

The Judgment of the Court was delivered by

KRISHNA IYER, J.—This appeal, without any merit, deserves to be dismissed without much ado.

The few facts of the case are that the appellant and the respondent, both operators of stage carriages, applied for a permit on an 86 Km. route. Marks were awarded to both under the relevant Motor Vehicles Rules to settle their comparative merit. The appellant secured 8.79 marks and the respondent 12.08. The latter thus secured an easy arithmetical victory over the former and the sense of the scheme would have ordinarily led to the award of the permit to the respondent. However, the Road Transport Authority preferred the candidate with the lesser marks on the compassionate ground that the rival with the larger marks had already got a permit a couple of months before, on an overlapping route of 53 Km. On appeal, the Appellate Tribunal set aside this award and granted

- A** the permit to the one who had more merit. This has been affirmed throughout, repelling the challenge by writ petition. The aggrieved appellant contends that his permit should not have been set aside, the ground being that the respondent had got an earlier permit on a part of the route. We are not persuaded about this ground being good.
- B** Permits cannot be equated with distribution of patronage. We must remember that public interest is at stake when public transport services are operated. The scheme of the statute, viz., the Motor Vehicles Act is that he who can serve the travelling public best, is to be chosen as the permit holder. Considerations of grace, charity and compassion at the expense of public interest are an act of unfairness to the Act. The conclusion, therefore is that the
- C** appellant's claim was rightly rejected and the respondent's award was rightly made.

We dismiss the appeal but in the circumstances without costs.

P.H.P.

Appeal dismissed.