

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

Present: Sri. S S Nakul, I.A.S.
Deputy Commissioner,
Uttar Kannada, Karwar.

No. DCB/MAG-1/CR-4/2017-18



Between

1. President Bus Operators Association (R)
behind city club, K.T. Shammaiah Gowda Road,
Shivamoga.
(Represented through Sri K.V. Jayaprakash)

.... Petitioner

V/s

1. Divisional Controller,
NWKRTC N.K. Division Sirsi.
(Represented through Legal advisor)

.... Respondent

Sub: Petition is filed against the Notification issued by Hon'ble District Executive Magistrate No. DM80/111-CR/111 dated 19-03-1994 and to modify the order in the resolution dated 20-10-2014.

Preamble:

A petition has been filled against the impugned notification issued by the District Magistrate in his order No. DMT/111/CR-111 dated 19-03-1994 and to modify the order in the resolution dated 20-10-2014.. Notices were issued to both parties.

The brief facts of the case are as follows:

Deputy Commissioner Uttara Kannada Karwar and District Magistrate Uttara Kannada Karwar had issue notification No. DMT/111/CR-111 dated 19-03-1994 that as per Karnataka Police Act 1963 U/s 31(1)(b) prohibiting to stop the private vehicles such as private buses, tempos, maxi cabs, cars, lorry, matador within the radius of 500 meters around NWKRTC bus stands in Municipal area of Karwar, Ankola, Kumta, Honnavar, Bhatkal, Sirsi, Siddapur, Yellapur, Mundgod, Haliyal, Joida, Dandeli and Rural area of Banavasi and Murdeshwar. Regional Transfer Authority Shivamoga has given permit to Vijaya Motors Services Shivamoga for operating private buses from Shivamoga to Siddapur. But private buses have not been providing separate bus stand as they strictly maintain time hours according to permit. Being aggrieved by this notification petitioner filed petition before this court. Case was heard on 29-05-2017, 12-6-2017 and 3-7-2017.

The petitioner requested to consider the appeal memo as written argument.

1. As per Deputy Commissioner order dated: 19-3-1994 private stage carriage buses are running transport passenger buses and lifting the passenger near the KSRTC bus stand as they have not been provided separate bus stand. The private bus operators maintain the time according to permit. They are services are very much essential to the passengers to travel other places. This services are going on from past 40 years.
2. In Karwar District there is no bus stand facilities to private stage carriage buses either by Municipality, Pattana Panchayat or other local administration. Due to this private stage carriage buses stop near KSRTC bus stand for 8-10 minutes. There is no hurdle hitherto either to N.W.K.R.T.C buses or private stage carriage buses.
3. It is known to all that the service of private stage carriage buses are very essential to passenger particularly those who are depending on the said service daily. It is known

to the authority that, the said buses are rendering their service daily to the middle class people, farmers, old age people and school children etc.

4. It is very difficult to the passenger who alight from the stage carriage vehicles beyond 500 mtrs from K.S.R.T.C bus stand. Passengers felt difficulty to walk about 500 mtrs with their luggage. It is requested to arrange separate shelter to stage carriage vehicles.
5. As mentioned in the permit condition and as per Section 72(2)(XX) of the motor vehicles Act 1988. That any specified bus station or shelter maintained by Government or a local authority shall be used and that any specified rent or fee shall be paid for each use. No such shelter provided by government or local authority to private stage carriage vehicles in Uttar Kannda District. Private stage carriage vehicles.
6. In the said notification category of vehicles is described in general to include meaning of bus, matador, car, taxi, tempo and etc without any specification to stage carriage vehicles.
7. Our Association has requested to modify the notification. Stage carriage buses are in service of general public and expect suitable ordinance for their business. Notification issued in the year 1994 appears to be unhealthy in the interest of all. The said notification is not helpful to the general public who are traveling from different town and village by paying fares proportionately according to the distance. On contrary the notification is helpful to the only contract carriage buses, Who is giving services from point to point in the type of non stop services.

Hence he requested to modify the notification dated:19-3-1994 or exempt stage carriage vehicles from the said notification in interest of stage carriage of operators as well as public.

The Advocate for Respondent argued that.

1. The petition filed by bus operators union Shivamoga for corrigendum to the notification issued by Hon'ble District Magistrate Karwar dated:19-3-1994 is untenable in law and liable to be dismissed. The petition filed by bus operator association is after two decades is time barred and liable to be dismissed.
2. The notification issued by Hon'ble District Magistrate Karwar dated:19-3-1994 is made with sole object of public safety and considering the vehicle congestions that was existed during 1994. For example the vehicle population at Sirsi RTO as on March 31, 2014 were about 87,000 vehicles and that has been increased to about 124,000 as on March 31, 2017. Thereby, the vehicles increased by 37,000 in 3 years within the jurisdiction of Sirsi RTO. Hence, it could be safety assessed that the vehicle congestion are almost 10 times more compared to the vehicle congestions that were existed during 1994. If the application is allowed, the public interest and safety would definitely be prejudiced.
3. The corporation is operating several services on the routes connecting the District Head Quarters with that of the rural areas keeping in view of commuters services. The Corporation since, 1999 after bifurcation from KSRTC, has inducted several numbers of buses for which, the existing bus stations of NWKRTC in North Kanara District itself are congested. The Corporation also committed to increase the vehicle to suit the demand of the public in future. The other State Transport Corporation



have also increased the buses Considerably and the inflow of vehicles from other State Transport Undertakings are also high.

4. This notification is purely made in the interest of public transport convenience and safety. As the notification was made purely based on the report of the Superintendent of Police Karwar.
5. The legality and propriety of the said notification Dated:19-3-1994 passed by this Hon'ble Court was challenged by Shri Gajanana Motor Transport Company Ltd. Shivamoga in WP No.11803/2006 before the High Court of Karnataka at Bangalore wherein the Hon'ble High Court observed as follows " The impugned notification challenged in this petition having been issued in larger public interest, therefore do not call for any interference. Since the interpretation of Sec.117 has already been considered and the same has been followed by, there is no reason as to why this writ petition requires to be entertained. The impugned order having passed in larger public interest also could be another ground to decline to entertain the impugned order".
6. The Government is also party before Hon'ble High Court in WP No.11803/2006 and W A No. 1916/2008. When the Government itself is not at all objected that District Magistrate has violated any provisions it impliedly shows that the order passed by the Authority is legal order.
7. If the notification is modified by exempting the applicants, the Private operators will park their buses in the prohibited area. Which causes to much rush at bus station. As well as prohibited area and passenger will be put to undue hardship.
8. The notification dated: 19-3-1994 is applicable to all private operators irrespective of having either stage carriage permits or contract carriage permits. The very crux behind issue of said notification is keeping in view of the public interest at large. But the purpose of Sec.117 of the MV Act is that in consultation with the local authority having jurisdiction in the area concerned determined places at which motor vehicles may stand either indefinitely or for a specified period of time and may determine the places at which public service vehicles may stop for a longer time than is necessary for the taking up and setting down of passengers. Sec.117 does not indicate that the private operators can park, set down or pick up passengers at any places near STU bus stands taking the shelter that they are the stage carriage permit holders running their vehicles since 1976. The question of stage carriage permit holders are plying the vehicles since time immemorial does not arise in issuing of said notification; but the safety of commuters plays significant role.
9. The Hon'ble High Court, in number of cases having similar issues has upheld the magisterial notification issued by the respective District Magistrates keeping in consonance with the provisions of Se. 31(1)(b) of the Karnataka Public Act, 1963. The said orders also have been reported in 1998 (4) KAR L.J 75-B - Shri H.T Annaji Vs The District Magistrate and Deputy Commissioner, Hassan and others and ILR 1998 KAR 537- Smt. Kathiza and others V/s the District Magistrate and others.

Hence he requested to reject the petition in the interest of justice and equity.

On perusal of the records and written argument of both parties it reveals that the then Deputy Commissioner Uttar Kannada Karwar and District Magistrate Uttar Kannada Karwar had issue notification No. DMT/111/CR-111 dated 19-03-1994 that as per Karnataka Police Act 1963 U/s 31(1)(b) prohibiting to stop the private vehicles such as

private buses, tempos, maxi cabs, cars, lorry, matador within the radius of 500 meters around NWKRTC bus stands in Municipal area of Karwar, Ankola, Kumta, Honnavar, Bhatkal, Sirsi, Siddapur, Yellapur, Mundgod, Haliyal, Joida, Dandeli and Rural area of Banavasi and Murdeshwar. Regional Transfer Authority Shivamoga has given permit to Vijaya Motors Services Shivamoga for operating private buses from Shivamoga to Siddapur. But private buses have not been providing separate bus stand as they strictly maintain time hours according to permit and they are not permitted to alight and pickup passenger nearby bus station. Notification passed by the District Magistrate dated:19-3-1994 U/S 31(1)(b) of Karnataka Police Act 1963 was made based on the report of Superintendent of Police Karwar and after due appreciation of the same in the interest of maintaining law and order surrounding the NWKRTC bus station without rift. If notification is modified the private operators will park their buses which will cause too much nuisance in the bus station. In order to maintain law and order and in the interest of public transport convenience and safety the notification made by District Magistrate dated: 19-3-1994 is left untouched. Hence, I proceed the following order.

No. DCB/MAG-1/CR-4/2017-18

Date: 14-08-2017

Order

Petition is dismissed

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 14-8-2017)



[Signature]
**Deputy Commissioner,
Uttara Kannada, Karwar**

Copy to:-

1. President Bus Operators Association(R) behind city club, K.T Shammaiah Gowda Road Shivamoga for information.
2. Divisional Controller N.W.K.R.T.C N.K Division Sirsi for information and necessary action
3. RTO Sirsi and RTO Karwar for information and necessary action.

