

the provisions of section 10(1) they are liable to assess-
 ment under section 10(6). No specific services
 are being rendered by the Company and there is no
 remuneration charged for any specific services, As
 pointed out in *Calcutta Stock Exchange Association,
 Ltd. v. Commissioner of Income-tax, West Bengal,
 Calcutta* (1), entrance fees and subscriptions are
 arbitrary sums charged as the price of the privilege of
 membership or quasi membership and not as re-
 remuneration definitely related to any specific services
 performed.

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 sioner of In-
 come-tax,
 Delhi, Ajmer,
 etc.
 v.
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 Exchange As-
 sociation,
 Ltd., Delhi
 Bhandari, C. J.

For these reasons I am of the opinion that the
 question which has been referred to us by the Tri-
 bunal must be answered in the affirmative.

KHOSLA, J.—I agree.

Khosla, J.

APPELLATE CIVIL

Before Falshaw and Bishan Narain, JJ.

THE SARASWATI CO-OPERATIVE TRANSPORT
 SOCIETY, LTD.,—Appellant

versus

THE CHIEF COMMISSIONER DELHI STATE AND OTHERS,—
 Respondents

1957

Letters Patent Appeal No. 37-D of 1955.

Jan., 23rd

*Motor Vehicles Act (IV of 1939)—Section 64(a)—
 Appeal under—Parties to the appeal—Right to be heard—
 Extent of the appeal—Considerations for grant of permits—
 Appellate Authority—Whether can grant additional
 permits.*

Held, that there is no provision in the Motor Vehicles
 Act or in the rules, under which any person other than
 the appellant and the original authority is to be impleaded
 as a party to the appeal or heard. The Act does not con-
 template that anybody else should be heard in appeal.
 The policy of section 64 is to give a right of appeal to per-
 sons aggrieved by the order of the Transport Authority
 refusing permits to them but not to get the permits granted
 to others cancelled. The stage carriage permits are to be

(1) (1956) 29 I.T.R. 687.

granted or refused in public interest and not to advance private or individual interests. The Transport Authority in appeal represents the applicants' interests so far as they are consistent with public interest. So a person whose permit was not sought to be cancelled in appeal, although an additional permit was contemplated to be given to another person on the same route, had no right, as a matter of law or under the rules of natural justice, to be heard by the Appellate Authority.

Held further, that when the record goes to the Appellate Authority for decision of an appeal, the Appellate Authority has the jurisdiction to grant an additional permit, if it considers necessary, and it is not necessary to remand the case to the Transport Authority for grant of the additional permit after observing the procedure laid down by section 57 of the Act. Such a course will reduce the right of appeal under section 64(a) for grant of permits to a farce especially when the Transport Authority complied with the provisions of section 57 of the Act in the first instance.

Sangram Singh v. Election Tribunal Kotah and another (1), distinguished

Letters Patent Appeal under Clause 10 of the Letters Patent against the judgment passed by Hon'ble Mr. Justice, Dulat in Civil Writ No. 5-D of 1955 on 27th September, 1955, dismissing the petition and discharging the rule.

A. N. GROVER, for Appellant.

R. L. ANAND and BISHAMBER DAYAL, for Respondents.

JUDGMENT.

Bishan Narain, J. BISHAN NARAIN, J.—The Saraswati Co-operative Transport Society, Limited of Delhi, applied to this Court under Article 226 of the Constitution of India to get an order of the Chief Commissioner, dated the 10th of September, 1954, quashed by which he as appellate authority had granted a stage carriage permit to the Delhi-Agra Goods Transport Company,

(1) A.I.R. 1955 S.C. 425.

Limited of Delhi, along with the petitioning Company on the Delhi-Jaitpur route. This petition was dismissed on the 27th of September, 1955, and the Saraswati Co-operative Society has filed this appeal under clause 10 of the Letters Patent.

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v.

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Commissioner,
Delhi
State and
others

Bishan Narain,
J.

The facts leading to this appeal briefly are as follows. The State Transport Authority of the Delhi State invited applications for stage carriage permits on various routes including the route now in question. About 750 applications were received. The State Transport Authority after hearing the applicants granted permits to various persons and one permit was granted to the appellant Society to ply a bus on the Delhi-Jaitpur route. No other person was granted a permit for this route. The Delhi-Agra Goods Transport Company, Limited, appealed to the Chief Commissioner under section 64(a) of the Motor Vehicles Act impleading the State Transport Authority as respondent. The appeal was heard and on the 10th of September, 1954, the Chief Commissioner ordered that a permit be issued to the Delhi-Agra Goods Transport Company, Limited, for this route. This order was passed without any notice to the appellant Society and without hearing it. On coming to know of this order the Society applied for review, but the Chief Commissioner while stating that according to the usual practice he should have heard the Society, dismissed it on the ground that he had no power to review his order. Thereupon the writ petition out of which this appeal has arisen was filed in this Court.

The learned counsel for the appellant has urged two points in support of this appeal, namely (1) that the Society was interested in the appeal filed by the Delhi-Agra Goods Transport Company, Limited, and should have been heard before the impugned order was passed, and (2) that the Chief Commissioner had no jurisdiction to order the issuance of a new permit

The Saraswati Co-operative Transport Society, Ltd. without following the procedure laid down in section 57 of the Motor Vehicles Act.

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—————
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J.

I proceed to deal with the first point first. Section 64 of the Act lays down that an aggrieved person may appeal to the prescribed authority within prescribed time in the prescribed manner and that authority is to decide the appeal after giving an opportunity of being heard to the appellant and to the authority against which the appeal has been filed. It is to be noticed that there is no provision in the Act nor in the rules under which any person other than the appellant or the Original Authority is to be impleaded or heard. The Act does not contemplate that anybody else should be heard in appeal. The learned counsel's argument is that his client was seriously affected by the impugned order, and that it would be contrary to all canons of natural justice if the appeal in such circumstances was to be decided without affording any opportunity to his client, the Society, to place its case before the Appellate Authority. The learned counsel has relied on *Sangram Singh v. Election Tribunal, Kotah, and another* (1), in support of his contention. The Supreme Court did not deal in that case with the Motor Vehicles Act, but it has laid down—

“ that a law of natural justice exists in the sense that a party must be heard in a Court of law, or at any rate be afforded an opportunity to appear and defend himself, unless there is express provision to the contrary * * ”

Now, section 64 of the Act grants right of appeal to persons who are aggrieved by an order of the Transport Authority. Such an appeal does not necessarily involve the cancellation of a permit granted to any

(1) A.I.R. 1955 S.C. 425.

person or persons. Under section 64(f) a local authority or police authority or an association or a person providing transport facilities who is aggrieved by the grant of a permit to a person can appeal, but no other person has been given the right of appeal on this ground. In the present case, therefore, the Delhi-Agra Goods Transport Company had no right of appeal to the Appellate Authority for the purposes of getting the permit granted to the petitioner-appellant cancelled. The policy of section 64 appears to me to be to give a right of appeal to persons aggrieved by the order of the Transport Authority refusing permits to them but not to get the permits granted to others cancelled. The reason is obvious. The stage carriage permits are to be granted or refused in public interest and not to advance private or individual interests, nor are these permits to be granted to enable certain persons to increase their sources of income. Therefore, when a Transport Authority comes to the conclusion that a stage carriage permit should be issued for a given route it has to invite applications for this purpose. The applications are then to be published and decided on a given date in a public hearing. At that time all persons who have made representations or submitted applications have a right to be heard (*vide* section 57). After the hearing the Transport Authority passes orders granting any number of permits on a given route in the public interest. The unsuccessful applicants who are aggrieved by the rejection of their applications are given a right of appeal to obtain permits for themselves and not to get a permit cancelled which has been granted to other persons. It is for this reason that section 64 lays down that an opportunity should only be given to the person aggrieved and to the original authority of being heard and to no one else as no one else is interested in the matter. If it were otherwise, it would not be possible to dispose of an appeal within a reasonable

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time after service of notice on all the applicants and persons who have a right to be heard under the Act and it would prominently introduce consideration of private interests which are opposed to the object of the Act. The Transport Authority in appeal represent the applicants' interests so far as they are consistent with the public interest. In these circumstances it cannot be said that a party to whom a permit has been granted on a given route is interested in opposing the appeal of another person who wishes to get a permit granted to him on that very route. It may be that a person to whom a permit has been issued is financially affected if the Appellate Authority decides to issue an additional permit on the same route because thereby an additional competitor is introduced, but that is a consideration which is not relevant for the purposes of advancing the object of the Act. The matter of additional permits is to be decided on the ground of public and not individual or personal interests. The public interest is represented by the Original Transport Authority. The principle laid down in the Supreme Court judgment, *Sangram Singh v. Election Tribunal Kotah and another* (1), would have applied to the present case only if the appellant's permit had been cancelled or was sought to be cancelled and not otherwise. Therefore, in the present case the appellant had no right as a matter of law or under the rules of natural justice to be heard by the Chief Commissioner before the impugned order was made.

It was then argued that the Chief Commissioner could not grant an additional permit without following the procedure laid down in section 57 of the Act. In other words, the contention is that after the Chief Commissioner had decided that an additional permit should be granted on this route, he should have remanded the case to the Original Authority to choose the person to whom it should be granted. This means

(1) A.I.R. 1955 S.C. 425.

that the Appellate Authority has no power to decide the appeal finally when an appeal is filed under section 64(a) against the refusal to grant a permit to the appellant. Moreover, before an appeal is filed, the Transport Authority has to comply with the provisions of section 57, which was admittedly done in the present case, and then the record goes to the Appellate Authority for decision of the appeal. No reason has been brought to my notice which should impel me to hold that in such circumstances the Appellate Authority has no power to decide an appeal finally but has to remand the case for observing afresh the provisions of section 57 of the Act and then the Transport Authority should grant additional permit or permits. Such a procedure, while unnecessary, must cause considerable delay in disposing of the matter finally. If the contention of the learned counsel is accepted, then an appeal cannot be decided finally within a reasonable time because after every remand there will be a fresh right of appeal to all applicants and then this process can be continued indefinitely because after every decision on remand an applicant can move the Appellate Authority who can never pass a final order. This reduces the right of appeal under section 64(a) for grant of permit into a farce. I have, therefore, no hesitation in rejecting this contention.

No other point was argued before us. This appeal, therefore, fails and is dismissed with costs.

FALSHAW, J.—I agree.

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CIVIL REFERENCE

Before Falshaw and Bishan Narain, JJ.

THE COMMISSIONER OF INCOME-TAX, DELHI, AJMER,
RAJASTHAN, AND MADHYA BHARAT, DELHI,—
Petitioner

versus

M/s CHUNI LAL MONGA RAM, DELHI,—*Respondent.*

(I.T. Case) Civil Reference No. 13 of 1955.

*Indian Income-tax Act (XI of 1922)—Sections 10(1),
14(2) and 24(1),—Business carried in British India—Loss*

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