

Land Transport Appeals Tribunal  
Sitting at Lautoka

Appeal # 128 of 2017

Between: **Nirmala Devi**

Appellant

And: **Land Transport Authority**

Respondent

**For the Appellant:** In Person

**For LTA:** Ms. T. Colati

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### Judgment

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#### Introduction

The Appellant, Nirmala Devi applied for a taxi permit on 3<sup>rd</sup> April 2008. The LTA advised the Appellant of its decision as follows:

"In exercise of powers delegated to the Chief Executive by Land Transport Authority, vide Section 12 of the Land Transport Act 1998 and acting under above delegation your application has been refused on the following grounds.

- 1. That the need is not established since most of the Ba Taxis are doing illegal trips between Ba and Lautoka which is a sign of too many taxis approved for Ba area."**

The Appellant was advised of the LTA's decision vide letter dated 21<sup>st</sup> October 2008. On 6<sup>th</sup> November 2008, Ms Devi paid the appeal fees in Ba for this appeal.

The Appellant informed the Tribunal that she was made to run around whenever she went to LTA and followed up on her appeal and was not given proper advice where to go for the appeal. Following a letter (together with all supporting documents for the application and the appeal) by the Appellant dated 10<sup>th</sup> November 2017 the Tribunal directed the Tribunal Secretary to open a file and that the Tribunal would deal with the appeal.

## **Grounds of Appeal**

The Appellant who is unrepresented filed an appeal through a letter. The Appellant grounds of appeal can be briefly summarised from the letter as follows:

1. Need is established.
2. Decision of the LTA is irrelevant - took into consideration about Lautoka - Ba route when applicant applied from Clopcott, Ba.

## **Hearing and Submissions Made**

The matter was heard on 27<sup>th</sup> July 2018. This Tribunal has perused and noted all the documents filed and the submissions made.

## **The Regulations and Procedures relating to grant of new Permits**

Regulation 5 (1) of the Land Transport (Public Service Vehicles) Regulations 2000 sets out the matters which the LTA is required to take into consideration when it deals with applications for a new permit.

The Regulations and procedures relating to the application and grant of new permits are governed by Part 2 (Regulations. 3 to 18) of Land Transport (Public Service Vehicles) Regulations 2000.

## **The Function and Powers of the Tribunal**

Section 40 (2) of the Land Transport Act provides for the function of the Tribunal, which is "to hear and determine appeals against decisions of the Authority relating to -

- (a) licensing of drivers under section 56;
- (b) any matter requiring a decision of the Authority under Part VI ; and any other matter prescribed by the Minister by regulations."

The powers of the Tribunal for the purposes of hearing and determining appeals according to Section 46 are to "(a) to issue a summons to a witness in the prescribed form; (b) to call for the production of books, plans and documents; (c) to examine witnesses on oath or affirmation; (d) to admit any evidence whether written or oral and whether or not such evidence would be admissible in civil or criminal proceedings; (e) to exclude any person if necessary so as to ensure the proper conduct of the appeal or to preserve order."

Furthermore, under Section 46 (2) "on an appeal under this Part the Tribunal may dismiss the appeal or make such order as it thinks just and reasonable in the circumstances directing the Authority to issue, transfer, or cancel any licence, certificate or permit, or to impose, vary, or remove any condition or restriction in respect of a licence, certificate or permit, and the Authority shall comply with that order." And under Section 46 (3) "Upon the determination of an appeal under this section the Tribunal may make such order as it thinks just with the respect to the costs of the appeal, and any person to whom any such costs are awarded may recover the amount of those costs in any court of competent jurisdiction, as a debt due from the person against whom those costs are awarded."

According to Section 47 the Tribunal "for the purposes of the hearing and determination of any appeal the Tribunal shall have regard to those matters which the Authority is required to have regard to in considering an application under this Act."

### Analysis

This Tribunal has noted that the Respondent's ground's for the refusal of a Taxi permit to the Appellant. The submissions of the parties have been noted.

From the Records the Tribunal finds there exist no report or information which shows what was relied on by the CEO of LTA to come to the finding as he did "**that the need is not established since most of the Ba Taxis are doing illegal trips between Ba and Lautoka which is a sign of too many taxis approved for Ba area.**"

The Tribunal having noted the records, the documents filed by the Appellant and the submissions of the Parties finds that the LTA did not evaluate the application that was before it in a fair and a reasonable manner. The only Records that the LTA submitted was the public notice and the decision letter. The Appellant submitted to the Tribunal the following: base confirmation letter by the Ba Rural Local Authority, support letters, copy of advertisement, receipt for police clearance, support letter by District Officer- Ba, Cash flow statement, reasons for application and a medical report. None of these are part of the records.

At the hearing the Appellant informed the Tribunal that she lives in the community from which she applied for the taxi permit. According to the Appellant the community does not have access to a taxi. The LTA has not refuted this. According to

the Appellant, the Clopcott area is densely populated and with a population of about 3000. The submission for the LTA was that they have very little information and sought that the application be referred to the Board. The LTA has given a decision and asked the Appellant to appeal it to the Tribunal. The Appellant has exercised her right of appeal. The Tribunal accepts the submissions of the Appellant and the documents that she has provided to the Tribunal as true and proper documents that supported her application. LTA has failed to provide adequate records and documents filed by the Appellant. LTA also failed to properly evaluate the application lodged by the Appellant. The Appellant complied with the requirements and therefore should have been granted a permit. LTA went in around-about manner to find a reason not to grant a permit. The excuse being illegal operations between Ba and Lautoka. which is an enforcement issue, unrelated to the application by the Appellant.

For the reasons given herein this Tribunal finds that the Appeal succeeds.

### **Orders**

1. The Appeal succeeds.
2. The LTA is directed to issue a taxi permit to the Appellant, Nirmala Devi of Clopcott Street, Ba within 30 days of this judgment.
3. LTA, Respondent to pay Appellant, Nirmala Devi \$500.00 costs within 30 days. The costs have been summarily assessed.



Chaitanya Lakshman  
**Land Transport Appeals Tribunal**  
24<sup>th</sup> August 2018

