
(1982) 03 KL CK 0020

In the High Court Of Kerala

Case No : O.P. No's. 240 and 5233 of 1981

Balakrishna Travels and Another

APPELLANT

Vs

The Regional Transport Authority, Malappuram and Others

RESPONDENT

Date of Decision : 12-03-1982

Acts Referred:

Motor Vehicles Act, 1939 — Section 45, 57, 57(8), 62

Citation : AIR 1982 Ker 274

Hon'ble Judges : K.K. Narendran, J

Bench : Single Bench

Advocate : V. Sivaraman Nair, M. Krishnakumar, V. Rajendran and K.C. Sankaran, for the Appellant; K. Neelakandha Menon and P. Gopalakrishnan, for the Respondent

Final Decision : Allowed

Judgement

K.K. Narendran, J.—Questions of some importance in motor vehicles law arise for consideration in these cases. A Regional Transport Authority grants a temporary permit for a route which lies in the region of another Authority. Can the grant be saved for the reasons that the stage carriage for which the temporary permit was granted was operating on a route in the region of the Authority on lie basis of a pucca permit already granted by the Authority, the stage carriage can operate on the route for which the temporary permit was granted as a continuation of the route it was already operating and that when the routes covered by the pucca permit and the temporary permit are taken as a whole the major portion of the same lies in the region of the Authority which granted the temporary permit. The further question is whether the application for the temporary permit can be considered as an application to vary the conditions of a permit u/s 57(8) of the Motor Vehicles Act, 1939, for short the Act, and the grant of the temporary permit be saved as an extension of the permit even though the procedure insisted by Section 57 of the Act for the grant of a permit was not followed by the Authority in mating the impugned grant.

2. The petitioner in O. P. No. 5233 of 1981 is a stage carriage operator with two pucca permits on the routes Puduponnani-Kunnamkular via Edappal and Kadavallur, and Puduponnani-Guruvayur via Eaduvattom, Kadavallur and Kunnamkulam. The 5th respondent is another operator having a pucca permit on Kadavallur-Trichur via Kunnamkulam. The 1st respondent-Regional Transport Authority, it seems, accepted a proposal to extend the 5th respondent's permit from Kadavallur to Edappal and granted a temporary permit for periods of 20 day and 4 months on the route Kadavallur to Edappal to operate as an extension of the pucca permit he was having on the route Kadavallur-Trichur. The 5th respondent again applied for a temporary permit on the route Kadavallur-Edappal as an extension of his route Kadavallur-Trichur. The matter was considered by the 1st respondent-Regional Transport Authority on 20-7-1981. The petitioner opposed the grant mainly on the ground that the 1st respondent has no jurisdiction to grant a temporary permit on the route Kadavallur-Edappal as the same is in the Malappuram District which is the region of the 3rd respondent-Regional Transport Authority, Malappuram. It was also contended that the 1st respondent has no power to extend or vary a pucca permit temporarily on an application submitted u/s 62 of the Act. The 1st respondent ignored the petitioner's objections and granted the temporary permit to the 5th respondent. Ext. P-2 is the application for the temporary permit submitted by the 5th respondent in Form P. T. A, and Ext. P-1 is the covering letter. Ext P-3 is the order making the grant. The petitioner challenged Ext. p-3 before the 4th respondent-State Transport Appellate Tribunal, Ernakulam by Ext. P-4 appeal. The 4th respondent dismissed that appeal by Ext P-5 judgment. It was under the above circumstances that the petitioner approached this Court with this original petition challenging Exts. P-3 and P-5.

3. A counter-affidavit has been filed by the 5th respondent. Along with the counter-affidavit Exts. R-1 to R-5 were produced. In the counter-affidavit it is stated : By Ext. P-3 order, the 1st respondent has granted the successive issue of the temporary permit" to do extended service from Kadavallur to Edappal in continuation of the existing pucca permit. The proposal to extend the route Kadavallur-Trichur to Edappal was notified u/s 47(1) of the Act. The 5th respondent filed an application for a temporary permit to do extended service from Kadavallur to Edappal in continuation of the existing pucca permit from Trichur to Kadavallur. The proposal for extension and the petitioner's application for a temporary permit were considered and disposed of by the 1st respondent by Ext. R-2. It was in pursuance of Ext. R-2, that the 2nd respondent granted a temporary permit for 20 days on the route Kadavallur-Edappal as per Ext. R-3. After receiving concurrence from the 3rd respondent-Regional Transport Authority, Malappuram, a temporary permit for 4 months was granted by the 1st respondent to the 5th respondent as per Ext. R-4. None of these permits were challenged by anybody including the petitioner. By Ext. R-5 the 3rd respondent gave concurrence to the temporary permit granted as per Ext. R-4. The 1st respondent is the only authority competent to grant the extension sought for and

when a temporary permit is granted to do extended service in continuation of the existing pucca permit, the route itself is enlarged and the major portion is decided taking the entire route as a whole. Ext. P-3 is an order granting temporary extension u/s 62 read with Section 57(8) of the Act.

4. The petitioner in O. P. No. 240 of 1981 is an operator on the routes Guruvayur-Ponnani via Edappal and Koottanad and Guruvayur-Kadampuzha Temple via Koottanad, Edappal and Kuttippuram. The 3rd respondent is an operator on the route Kut-tippuram-Malappuram via Valancherry, Kola-thoor and Kodur. The 3rd respondent submitted an application for a temporary permit to the 1st respondent-Regional Transport Authority, to operate on the route Malappuram-Kottippuram to Pattambi as an extension of his route Malappuram-Kuttippuram. Exhibit P-1 is a rough sketch of the route. The petitioner and others objected to the grant of the temporary permit. One of the objections was that a major portion of the route Kottippuram-Pattambi was in the Palghat District and hence the 1st respondent cannot grant a temporary permit. The 1st respondent granted the temporary permit applied for by the 3rd respondent. Against Ext. P-2 order sanctioning the temporary permit the petitioner filed Ext. P-3 appeal before the 5th respondent-State Transport Appellate Tribunal. The Regional Transport Authority, Palghat in whose region the major portion of the route for which the temporary permit was granted, lay, by Ext. P-4 refused to give concurrence. Again Ext. P-4 the 3rd respondent filed Ext. P-5 revision before the 5th respondent. The 5th respondent by Ext. P-6 judgment set aside Ext. P-2 order and remanded the matter to the 1st respondent-Regional Transport Authority for fresh consideration. Ext. P-5 revision filed by the 3rd respondent was disposed of by the 5th respondent by Ext. P-7 order directing the Regional Transport Authority, Palghat to consider the question of giving concurrence again as and when it was moved for concurrence. The 1st respondent by Ext. P-8 again overruled the petitioner's objections and allowed the 3rd respondent's application for temporary permit. It was under the above circumstances that the petitioner in this original petition has approached this Court. According to the petitioner, even though an appeal will lie against Ext. P-8, in view of the stand already taken by the 5th respondent no purpose will be served by approaching the 5th respondent. The 3rd respondent in the original petition has filed a counter-affidavit answering the averments and controverting the contentions in the original petition. Along with the counter-affidavit, Exts. R-1 to R-6 have been produced. The petitioner has also filed a reply affidavit pointing out, among other things, that the contention in the counter-affidavit that the original petition has become infructuous is not correct, as the questions to be decided in the original petition are questions of law relating to jurisdiction and it can never become infructuous.

5. In *Bherulal Vs. The State Transport Appellate Tribunal, Rajasthan, Jaipur and Others*,),

"It may be observed that Section 63 deals with validation of permits for use

outside the region in which they are granted. Now if Sub-section (4) of Section 63 is read in this context, it means that a temporary permit issued by the Regional Transport Authority of one region will become valid in another region also provided the Regional Transport Authority of the other region gives it concurrence. But it pre-supposes that the Regional Transport Authority issuing the permit must have jurisdiction and must be competent to issue the same. In my opinion, it does not deal with the competence or jurisdiction of the Regional Transport Authority to issue a temporary permit. That matter has been dealt with in proviso to Sub-section (1) of Section 45, which lays down as to which Regional Transport Authority will be competent to entertain an application for a stage carriage permit when it is proposed to use the vehicle in two or more regions lying within the same State or in different States and I do not see any warrant for holding that the operation of this proviso is restricted only to non-temporary stage carriage permits and not to temporary stage carriage permits." (Para 7)

In the above case, the learned Judge construed the word permit thus:

"Thus the word "Permit" includes both a non-temporary stage carriage permit as well as a temporary stage carriage permit. The heading of Section 45 is mentioned as "General provision as to applications for permits". Hence, unless there is a mention anywhere in the section to specific type of permits, it would not be unreasonable to include non-temporary stage carriage permits as well as temporary stage carriage permits in the word permit" wherever it has been used." (Para 9)

In the above case the learned Judge referred to an earlier Bench decision of the Rajasthan High Court and then held:

"I am, therefore, of opinion that the first proviso to Sub-section (1) of Section 45 applies to an application for a temporary stage carriage permit also and, therefore, the application in the present case for a temporary stage carriage permit, should have been filed before the Regional Transport Authority, Jaipur within whose region, admittedly, the major portion of the route in question lies and as a necessary corollary the Regional Transport Authority, Udaipur, had no jurisdiction to entertain the application and allow the same." (Para 10)

In *Gopalan v. Regional Transport Authority* 1965 KLT 776 it has been held:

"Section 57(8) does not confer any special jurisdiction on the Regional Transport Authority. If the authority has the power to grant a permit, he necessarily has the power to alter that permit also. There is no reason why this power should not be exercised at the request of a permit holder. Section 57(8) is only a limitation on the exercise of this power. The nature of the changes sought for in a permit may be such that after the changes a new permit may come into being. In such cases the sub-section indicates that the procedure prescribed by Section 57 for the grant of a new permit should be followed. This section certainly cannot be relied on for the purpose of ascertaining the powers of R. T. A." (Para 6)

In Akal Transport Co. P. Ltd. v. District Judge, Ludhiana AIR 1973 P&H 138 it has been held:

"According to Section 57(8) such an application is to be treated as an application for the grant of a new permit. It, therefore, follows that the application to vary the condition of a permit by the inclusion of a new route or routes or a new area has to be made to the same authority which is competent to grant a new permit. It is not disputed that the State Transport Commissioner was competent to grant a new permit and, therefore, was also competent to deal with the application for extension of the route. This submission is, therefore, repelled." (Para 3)

In the above case, the Division Bench referred to the definition of "route" in Section 2(28A) of the Act and then held :

"From this definition it is clear that if one of the two termini of a route is to be changed, it can be done u/s 57(8) of the Act and not under Clause (xxi) of Section 48(3). Clause (xxi) applies to the variation of the distance covered by the original route, that is, the termini prescribed for the original route should remain the same or, in other words, this clause applies only to a diversion of a route between two termini fixed for the original route and not for the extension thereof beyond one of the two termini. If a route has to be extended beyond one of the two termini, the application has to be made u/s 57(8) and not under Clause (xxi) of Section 48(3) of the Act." (Para 4)

In M.V. Abraham Vs. Pothan Kuruvila and Others,) this Court has said:

"What Section 57(8) says is that such application "shall be treated as an application for the grant of a new permit". We do not think that would make an application for variation an application for the grant of a new permit." (Para 5)

In Joseph v. Senapathi 1970 KLT 1102 it has been held:

"The procedure to be followed in granting a permit is really prescribed by Section 57 and Sections 47 and 57 have to be read together -- the latter forms part and parcel of the former. Section 47 no doubt implies a procedure by which the persons interested can come to know of an application for a permit so that they can make representations regarding that as they are entitled to do. But the statute does not leave the procedure to be implied by Section 47. It lays it down in express terms by Section 57 which provides for at least thirty days" notice by publication. And when by Section 62 the statute says in as many words that a temporary permit may be granted without following the procedure laid down in Section 57, it as good as dispenses with notice. The reason is not far to seek. For, a temporary permit is ordinarily required to meet an emergency and if a procedure of giving at least thirty days" notice inviting representations were to be followed, the delay necessarily involved would often defeat the very purpose of such a permit. Nevertheless, if any representations are actually received, the R. T. A. is bound to consider them u/s 47." (Para 11)

In Narayana Transports, Calicut Vs. Regional Transport Authority, Calicut and

Another, an operator having a permit from A to B applied for a temporary permit from A to C via B, the R. T. A. granted a temporary permit from B to C. This Court held:

"There was an application by the second respondent. But that was an application for the grant of a temporary permit for the entire route from Calicut to Thalad. The only question, therefore, is whether the Regional Transport Authority is justified in modifying this application and granting a permit for a part of the route applied for. I think Section 48 enables the grant of such a permit." (Para 5)

In *Madhya Pradesh State Road Transport Corporation, Jabalpur Vs. The State Transport Appellate Authority, Madhya Pradesh, Gwalior and Others*, it has been held:

"An application for extension of an existing permit is in effect an application to vary the conditions of the permit by inclusion of a new route or area and such an application falls under Sub-section (8) of Section 57. Section 57 lays down the procedure in applying for and granting permits. Sub-section (8) of Section 57 provides that an application to vary the conditions of any permit by the inclusion of any new route shall be treated as an application for grant of a new permit. From this it followed that an application for variation of the conditions of a permit by inclusion of a new route has to be made to the Authority granting the permit. It is no doubt true that if the new route proposed to be included in the permit falls within the jurisdiction of the countersigning Authority, the extension of the permit will be ineffective unless the permit as varied is again countersigned, but the application for extension is in the first instance to be made to the Authority granting the permit. We are, therefore, of opinion that the Regional Transport Authority, Rewa, which granted the original permit, had jurisdiction to grant the extension of the permit." (Para 5)

In *Bhumarg Yatayat Vs. The Regional Transport Authority and Another*, it has been held:

"The inclusion of a new route or a new area in the permit amounts to extension of the route. Consequently, if the route of a permit other than a temporary permit has to be extended, the provisions of Section 57 of the M. V. Act must be complied with. In the M. V. Act there is no provision for the temporary extension of the route of a permit; but such temporary extensions can be treated at par with temporary permits. u/s 57(8) an application for extension of the route is to be treated as an application for the grant of a new permit and consequently when the route is being extended temporarily, the application should, as far as the temporary extension is concerned, be treated as an application for temporary permit and in such circumstances, the provision of Section 62 of the M. V. Act shall become applicable." (Para 5)

In the above case it has been further held:

"Temporary extension of the route is thus at par with the grant of temporary

permit and consequently, the provisions of Section 62 of the M. V. Act must be fulfilled before temporary permits can be granted or the route temporarily extended." (Para 7)

In *M.R.G. and Brothers Bus Service, Palghat Vs. K.S. Kandaswami Chettiar and Another*,) it has been held ;

"It may so chance, that a temporary permit may relate to a route, which is in continuity with another route for which he may hold a permit, but on that ground, I think, it does not cease to be a temporary permit. As pointed out by the learned counsel for the first respondent, Section 62 which regulates the grant of temporary permits, does not impose restrictions of the above character, although two provisos dealing with other conditions form part of it; in other words, there is no proviso or limitation in Section 62 or anywhere in the Act, that a temporary permit shall not be granted so as to operate as an extension or variation of a route." (Para 3)

In *M.R.G. and Brothers Bus Service, Palghat Vs. K.S. Kandaswami Chettiar and Another*, an earlier decision of this Court in *G.B. Transports, Guruvayur Vs. R.T.A. Trichur and Others*, was distinguished. In *G. B. Transports* case AIR 1960 Ker 239 it has been held:

"There is provision in the M. V. Act for allowing variation of the route of a stage carriage for which a permit has already been granted, and Section 57(8) provides that an application to vary the conditions of any permit shall be treated as an application for the grant of a new permit. The procedure to be adopted by the Regional Transport Authority on receipt of an application for grant of a permit is contained in Section 57 of the Act.

..... This procedure admittedly has not been followed in granting the temporary variation of the route under Ex. P-2. It may also be mentioned that there is no provision in the Act for allowing temporary variation of a permit" (Para 2)

6. Section 2 (28-A) of the M. V. Act 1939 reads:

"(28-A) "route" means a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another."

Section 45(1) of the Act reads :

"45. General provision as to applications for permits.-- (1) Every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles :

Provided that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles.

Section 57(8) of the Act reads:

"57. Procedure in applying for and granting permits.-

(8) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or, in the case of a stage carriage permit, by increasing the number of trips above the specified maximum or by altering the route covered by it or in the case of a contract carriage permit or a public carrier's permit, by increasing the number of vehicles covered by the permit, shall be treated as an application for the grant of a new permit.

Section 62(1) of the Act reads:

"62. Temporary permits-- (1) A Regional Transport Authority may without following the procedure laid down in Section 57, grant permits, to be effective for a limited period not in any case to exceed four months, to authorise the use of a transport vehicle temporarily-

Rules 175 (f), 177-A (6) and 212 of the Kerala Motor Vehicles Rules, 1961 read:

"175. Application for permit.-- Every application for a permit shall be in one of the following Forms :

(f) in respect of temporary permit in Form P. T. A."

" 177-A. Grant, variation, suspension or cancellation of stage carriage permits -- Guiding Principles:--

(6) The Transport Authorities shall, in deciding whether to vary or extend a route, have regard to the following matters, namely :--

(a) Variation or extension of route may be allowed when-

(i) new circumstances have arisen since the route was decided, such as the construction of a bridge, or road;

(ii) the transport requirements of the area to be served were overlooked or have changed."

"212. Permit conditions--variation of--(1) Every application for variation of conditions of permit made under Sub-section (8) of Section 57 of the Act or otherwise shall be in form PVA.

(2) Upon receipt of an application by the holder of the permit to vary any one or more of the conditions thereof other than those referred to in Sub-section (8) of Section 57 of the Act, the Transport Authority which granted the permit may allow the application or for reasons to be recorded in writing disallow the same.

7. Hereinafter in this judgment the parties and exhibits will be referred to as they are in O. P. No. 5233 of 1981. In this case, it was a temporary permit that was applied for and it was a temporary permit that was granted by the 1st

respondent-Regional Transport Authority, Trichur. Admittedly, the route for which the permit was applied for lies in the region of the 3rd respondent-Regional Transport Authority, Malappuram. It is true that at the time the 5th respondent applied for the temporary permit he was using the vehicle for which the temporary permit was applied for on a route within the region of the Regional Transport Authority, Trichur on the basis of a pucca permit. The temporary permit was applied for as an extension of that route. As per Section 45(1) of the Act, the application for the permit is to be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle. If it is proposed to use the vehicle in two or more regions in the same State, the application has to be made to the Authority in whose region a major portion of the proposed route lies. So, it is the route on which the vehicle is proposed to be used and not the route on which the vehicle was already used at the time of the application that determines the jurisdiction of the Regional Transport Authority to entertain an application for a permit and grant the same. The position will not be different in the case of a temporary permit by way of extension of an existing permit as the route on which the vehicle is proposed to be used will not include the route on which it was already used as per the existing permit. Temporary permit is for the new route on which it is proposed to use the vehicle. The grant of this permit will not in any way affect the continuance of the route which the vehicle was already operating on the basis of the pucca permit. The effect of the grant is that the vehicle will operate on two routes, one on the basis of the pucca permit and the other on the basis of the temporary permit. What Section 62 of the Act which governs the grant of temporary permits insists is only that the time consuming procedure laid down in Section 57 for the grant of a permit (pucca permit) need not be followed in the case of the grant of a temporary permit. There is no indication in Section 62 that Section 45 or any other provision of the Act will have no application in the case of the grant of a temporary permit. It follows from the above discussion that the grant of a temporary permit, even if it in effect serves as an extension of a pucca permit, has to be made to the Regional Transport Authority in whose region the route for which the temporary permit has been applied for lies, as only that Authority can entertain an application for the same. As the route for which the vehicle was already having a pucca permit is not a factor which has to be taken into account, that route or that route taken along with the route for which the temporary permit was applied for, cannot confer jurisdiction on an Authority within whose region the route for which temporary permit was applied for does not lie. A variation of a permit can be made only u/s 57(8) of the Act and that too of a pucca permit. A temporary permit granted u/s 62 without following the procedure laid down by Section 51 cannot vary a permit granted u/s 57 even though by the grant of the temporary permit to the same vehicle it will actually cover more distance than that of the route for which it has the pucca permit. This is because of the fact that it has permit for two routes and one route is a continuation of the other. As long as the vehicle operates on the basis of two permits, it cannot also be said that by the grant of the temporary permit the pucca permit was extended. So, the

application for a temporary permit (for the route) which lies in the region of another Authority, cannot be treated as an application for variation of a pucca permit by the Regional Transport Authority which granted the pucca permit to assume jurisdiction for the grant of the temporary permit. In this case, it was a temporary permit that was applied for. It is also stated in Ext. P-2 application for the temporary permit "T. P. extension". According to me, there is nothing called a temporary variation of a pucca permit in motos vehicles law though a temporary extension of a route covered by a pucca permit by the grant of a separate temporary permit is possible if the routes covered by the two permits are continuous.

8. In Ext. p-5 judgment, the 4th respondent-State Transport Appellate Tribunal has relied on the decision of this Court in *Narayana Transports, Calicut Vs. Regional Transport Authority, Calicut and Another*, . As has been rightly pointed out in para 5 of the judgment, the only question that arose in that case was whether the Regional Transport Authority was justified in modifying an application for a temporary permit and granting a permit for a part of the route applied for. So, all that has been said in the above judgment about a temporary variation of a pucca permit can only be obiter dicta. It is also pertinent to note that the route for which the temporary permit was granted was a route within the region of the Regional Transport Authority which granted the permit. So, it cannot be said that the Appellate Tribunal was justified in relying on the above decision. In *M.R.G. and Brothers Bus Service, Palghat Vs. K.S. Kandaswami Chettiar and Another*,) the route for which the temporary permit was granted by the Regional Transport Authority, Palghat was a route which was within its region. The Regional Transport Authority did not vary the pucca permit (sic) the operator was granted by the State Transport Appellate Tribunal Madras for a route which was within the region of the Regional Transport Authority, Coimbatore. It goes without saying that that pucca permit can be varied u/s 57(8) of the Act only by the Regional Transport Authority, Coimbatore. The jurisdiction of the Regional Transport Authority, Palghat to issue a temporary permit for a route within its area was not also questioned in the above case. The learned Judge also held that an application for variation of the pucca permit of the operator has to be made before the Authority which granted the same. All that the learned Judge has said is that there is no proviso or limitation in Section 62 or anywhere in the Act that a temporary permit shall not be granted so as to operate as an extension or variation of a route. As a matter of fact, the jurisdiction of an Authority to grant a temporary permit for a route which is not within its region, as an extension or variation of a pucca permit granted by the Authority for a route within its region, did not arise for consideration in *M.R.G. and Brothers Bus Service, Palghat Vs. K.S. Kandaswami Chettiar and Another*,). So I distinguish the above decision on the facts. In *Madhya Pradesh State Road Transport Corporation, Jabalpur Vs. The State Transport Appellate Authority, Madhya Pradesh, Gwalior and Others*, the Mudhya Pradesh High Court said that an application for extension of permit has to be made to the Authority which granted the permit. In the above case, the

application was not for the grant of a temporary permit and the application was taken for granted as an application for variation u/s 57(8) of the Act for the extension of the pucca permit. So, the above decision also does not support the stand taken by the learned counsel for the 5th respondent.

9. In the result, I quash Exts. P-3 and P-5 and hold that the 2nd respondent-Regional Transport Authority, Trichur had no jurisdiction to grant the temporary permit in question.

10. In O. P. 240 of 1981 a contention was taken by the 3rd respondent grantee of the temporary permit that the original petition has become infructuous as the permit has already expired. In T.V. Anandan and Another Vs. State of Kerala and Others, I had occasion to consider a similar contention. I repelled the above contention relying on Himat Lal K. Shah Vs. Commissioner of Police, Ahmedabad and Another,). In this case also, I hold that O. P. 240 of 1981 has not become infructuous simply because the term of the temporary permit was long over. In this case, I hold that the 1st respondent-Regional Transport Authority, Malappuram and the 2nd respondent-Secretary, Regional Transport Authority, Malappuram had no jurisdiction to grant the temporary permits in question to the 3rd respondent. At this distance of time no purpose will be served by quashing Exts. P-6 and P-7 and hence they are not quashed.

11. The original petitions are allowed to the extent indicated above. No costs.

Issue carbon copies of this judgment to the counsel for the petitioners and the counsel for the contesting respondents.