

(1961) 08 P&H CK 0016
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Case No. 252-D of 1961

Capital Bus Service Private Ltd.

APPELLANT

Vs

State Transport Authority, Delhi and Another

RESPONDENT

Date of Decision : 16-08-1961

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Delhi Motor Vehicles Rules, 1993 — Rule 47
Motor Vehicles Act, 1939 — Section 46, 47, 48(3), 57, 62

Citation : AIR 1962 P&H 17

Hon'ble Judges : P.C. Pandit, J

Bench : Single Bench

Judgement

(1) This is a writ petition filed by the Capital Bus Service Private Limited, Delhi, under Articles 226 and 227 of the Constitution of India, challenging the validity of the resolution dated 7-6-61 passed by the Delhi State Transport Authority.

(2) It appears that in 1944 the Delhi State Transport Authority, respondents No. 1 granted 12 stage carriage permits to the petitioning Company for operating passenger transport services on Delhi Palwal route, covering a distance of 38 miles. The towns of Faridabad and Ballabgarh lie on this route and are situated at a distance of 21 and 24 miles, respectively, from Delhi. The petitioning Company started running these services in 1944 on Delhi Palwal route, touching both Faridabad and Ballabgarh. These services were running directly between Delhi and Faridabad, Delhi and Ballabgarh, and Delhi and Palwal, in accordance with the time-tables, which were duly approved by respondent No. 1. In 1947, due to industrial development, Faridabad Township grew up near Fairdabad and the petitioning Company started plying its buses to this Township also with the consent of respondent No. 1. In 1952 the petitioning Company increased the number of daily return trips on Delhi Faridabad Township route from six to seven with the approval of respondent No. 1. In April 1953, respondent No. 1 approved the time-table of the petitioning Company for 24 return trips per day on Delhi Palwal route (12 up to Palwal, 6 up to Ballabgarh, and 7 up to Faridabad)(vide

annexure "A").

In September 1953 the petitioning Company started running six return trips per day between Delhi and Faridabad (vide annexure "E"). In February 1955 respondent No. 1 wrote to the petitioning Company that the winter season time-table for the year 1954 submitted by the petitioning Company for Delhi Palwal route for 23 return trips per day (12 up to Palwal, 6 up to Faridabad and 5 up to Ballabgarh) had been approved (vide annexure "B"). In the winter of 1959 the petitioning Company increased the number of daily return trips from Delhi to Faridabad from 6 to 7 (vide annexure "E"). Thereupon, an objection was raised by the Regional Transport Authority, Amble, the countersigning authority for the Punjab portion of the route, against the increase of the said trips from 6 to 7. Upon this on 15-9-60 respondent No. 1 informed the Regional Transport Authority, Amble, that the trips had been increased by the petitioning Company with the approval of respondent No. 1 and they had been running the services according to the time-table approved by the Authority (vide annexure "E").

It seems that the industrialists and residents of Faridabad Township were keen that the Delhi Transport Undertaking, respondent No. 2, should ply their buses on Delhi-Faridabad Township route (vide annexure 9). On 28-9-60 the Delhi Transport Undertaking, respondent No. 2, applied to respondent No. 1 for the grant of stage, carriage permits for the Delhi-Faridabad route (vide annexure 12). This application was, however, withdrawn on 10-4-61 (vide annexure 13). It appears that on 17-5-61 an inter-state agreement between the representatives of the Delhi and Punjab States, regarding the arrangements for the operation of services on Delhi-Faridabad, Delhi-Sonepat, Delhi-Gurgaon Rewari routes took place, in which it was decided that respondent No. 2 would undertake exclusive operation of Delhi-Faridabad route, including the development that might take place during the next 5 years until 31-3-66 and that the shuttle services operating by the petitioner Company would be withdrawn by respondent No. 1 from the date respondent No. 2 started operation on that route (vide annexure 11).

It appears that the petitioning Company had applied to respondent No. 1 for the increase in trips and for the approval of the summer time-table of 1961, to which on 25-5-61 respondent No. 1 sent a reply (annexure "D"), informing the petitioning Company that any increase in trip on an inter-State route required the approval of the countersigning transport authority. They were further informed that they should run their services during the summer season on the basis of the time-table of the summer season of 1960, pending approval of the revised time-table. On coming to know of the inter-State agreement (annexure 11), the petitioning Company on 31-5-61 submitted a representation to respondent No. 1 opposing the said running of the services of respondent No. 2 on Delhi-Faridabad route and asking for an opportunity for a personal hearing regarding this matter (vide annexure F).

In reply to this representation, respondent No. 1 informed the petitioning

Company on 3-6-61 (vide annexure "G") that the permits held by them were for Delhi to Palwal route and, therefore, they could not claim and right to services on intermediate routes and the Governments might enter into reciprocal agreement in the best interests of the public. On the same day, that is 3-6-61, respondent No. 2 made an application to respondent No. 1 for the grant of six temporary permits for a period of four months on Delhi-Faridabad. Township route (vide annexure 14). On 7-6-61 the impugned resolution, contained in annexure "K" was passed by respondent No. 1, which runs as under:

"Resolution No. 36(3). The Delhi Transport undertaking has applied for 6 temporary permits for running stage carriage service on Delhi-Faridabad township route. There has been considerable pressure from the residents of Faridabad that the Delhi Transport Undertaking should ply regular service on this route and agreement has been made between Delhi and Punjab providing that the Delhi Transport Undertaking may run passenger bus service on Delhi Faridabad route and develop the service as necessary. The regular permits can be issued in accordance with the provisions of the Motor Vehicles Act. The Delhi Transport Undertaking has applied for temporary permits as service is considered immediately necessary. The Capital Bus Service, who held permits for Delhi Palwal route, run 5 shuttle services on Delhi Faridabad route every day. These shuttle services have been allowed in the past as there was no service on the route. Strictly speaking, the Capital Bus Service must run service on the entire Delhi Palwal route as a whole. Considering the public interest and the temporary need to the residents of Faridabad, the Authority decided to issue six temporary permits for a period of four months each to the Delhi Transport Undertaking.

As soon as the Delhi Transport Undertaking start plying service on Delhi-Faridabad route, the Capital Bus Service will cease to ply shuttle services on Delhi Faridabad route. The Capital Bus Service hold permits for Delhi Palwal route and shuttle services were bring run on Delhi Faridabad route according to the time-table, though there is no provision in the permits for running service on Delhi-Faridabad route. The Capital Bus Service have, therefore, no right to run service on Delhi Faridabad route under the terms of permits."

On 29-6-61 respondent No. 1 in reply to a letter received from the petitioning Company wrote to them (vide annexure "L") that respondent No. 2 proposed to start regular service on Delhi Faridabad route in accordance with the reciprocal agreement between Punjab and Delhi. Since the petitioning Company did not hold a permit for this route, it would not be necessary for them to run shuttle services on that route, when service was provided by respondent No. 2 and, consequently, they should furnish proposals for increase in the number of trips on their full route (Delhi-Palwal). It was also mentioned in this letter that on receipt of their proposals, the matter would be taken up with the Punjab authorities in accordance with the reciprocal agreement.

In reply to this letter, the petitioning Company wrote to respondent No. 1 on 9-7-61 (vide annexure "M") informing them that the decision of respondent No.

1 to stop their services on Delhi-Faridabad Township route and issue of temporary permits to respondent No. 2 for this very route was quite illegal and was not in public interest. A request was made in this letter to respondent No. 1 to reconsider this matter and revise the decision as the petitioning Company would suffer a heavy loss thereby and, at the same time, it would not help the travelling public in any way. On 11-7-61 the present writ petition was filed by the petitioning Company.

(3) Learned counsel for the petitioner, in the first instance, submitted that the order of respondent No. 1 to stop the services of the petitioning Company on Delhi Faridabad Township route was illegal and void inasmuch as no notice was given by respondent No. 1 to the petitioning Company, as required by Section 48(3)(xxi) of the Motor Vehicles Act (Act 4 of 1939), as amended by Act 100 of 1956. He contended that as respondent No. 1 has approved the time-table for the running of the services on Delhi Faridabad route, the same became a condition of the permit granted to the petitioning Company. Therefore, no variation in the condition of the permit could be made without giving one month's notice to the petitioning Company.

Learned counsel for the respondents on the other hand submitted that, firstly, the time-table in dispute had, as a matter of fact, not been approved by respondent No. 1. Secondly, even if it was approved, under the law, it did not become a condition of the permit. He submitted that according to Section 48(3) (iii), the only condition attached to the permit was that the copy of the time-table, duly approved, had to be exhibited on the vehicle and at specified stands and halts on the route. Thirdly, even if the time-table, itself, became a condition of the permit and notice was necessary for making any variation in the same, the non-issue of the notice was not such a grave error as would justify interference by the High Court under Article 226 of the Constitution. Fourthly, the petitioning Company had no right to run services on the intermediate routes because their permits were only valid for Delhi Palwal route, and not for Delhi Faridabad route.

(4) As regards the contention that the time table in dispute had not been approved by respondent No. 1, it is clear on the record that the petitioning Company was running its buses according to the approved time table right up to the winter season of 1960. It appears that the petitioning Company had applied to respondent No. 1 for the increase in trips and for the approval of the summer time table of 1961. As the time table had to be revised, in view of the increase in trips asked for by the petitioning Company, respondent No. 1 informed the Company on 25-5-61 (Vide annexure "D") that they could run their services during the summer season on the basis of the time table of the last summer season, pending approval of the revised time table, since any increase in trips on an inter State route required the approval of the countersigning Transport authority. Obviously, respondent No. 1 could not give approval to the revised time table, unless the condition precedent, namely, the approval of the countersigning transport authority, had been obtained. But there is no manner of

doubt that the time table, without the increase in trips applied for had been duly approved by respondent No. 1. Besides, this point was never taken by respondent No. 1 in the impugned resolution (annexure "K"). It was taken, for the first time, in their written statement, which clearly showed that this was an afterthought. Their main stand had throughout been that the petitioning Company had no right to ply any vehicles on the Delhi-Faridabad Township route, because they were not holding any permit for the same.

(5) As regards the point whether the approved time table for the running of the service had become a condition of the permit or not it will be seen that section 46 of the Motor Vehicles Act, relates to the applications to be made for the grant of stage carriage permits. According to clauses (a) and (c) of this section, the applicant has to state in the application the route or the routes for which he is applying and the minimum and maximum number of daily services proposed to be provided in relation to each route and the time table of the normal services. Section 47 of the Act merely deals with the procedure to be adopted by the Regional Transport Authority in considering the applications for the grant of stage carriage permits. Section 48 of the Act deals with the grant of stage carriage permits, the relevant portion of which is reproduced below-

"Section 48(1) Subject to the provisions of section 47, a Regional Transport Authority may, on an application made to it u/s 46, grant a stage carriage permit in accordance with the application or with such modification as it deems fit or refuse to grant such a permit:

Provided that no such permit shall be granted in respect of any route or area not specified in the application.

(2) Every stage carriage permit shall be expressed to be valid only for a specified route or routes or for a specified area.

(3) The Regional Transport Authority, if it decides to grant a stage carriage permit, may grant the permit for a service of stage carriages of a specified description or for one or more particular stage carriages, and may, subject to any rules that may be under this Act, attach to the permit any one or more of the following conditions, namely:-

* * * * *

* * * * * (ii) the minimum and maximum number of daily services to be maintained in relation to any route or area generally or on specified days and occasions.

(iii) that copies of the time table of the service or of particular stage carriage approved by the Regional Transport Authority shall be exhibited on the vehicles and at specified stands and halts on the route or within the area.

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(xx) that the conditions of the permit shall not be departed from, save with the approval of the Regional Transport Authority.

(xxi) that the Regional Transport Authority may, after giving notice of not less than one month,--

(a) vary the conditions of the permit.

(b) attach to the permit further condition.

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According to sub-section (1) of this section, the Regional Transport Authority may grant the permit in accordance with the application or with such modifications as it deems fit or refuse to grant the same, but no permit will be granted for the route not applied for. According to sub-section (2), the permit will be valid only for a specified route or area. Sub-section (3) authorises the Regional (State) Transport Authority, while granting the permit, to attach to the same any one or more of the condition mentioned in this sub-section. Clause (ii) of sub-section (3) is one of the conditions, which could be attached to the permit and it lays down the minimum and maximum number of daily services to be maintained in relation to any route. Clause (iii) is another condition, which could be attached to the permit and mentions that the copies of the time table approved by the Regional Transport Authority shall be exhibited on the vehicles and at specified stands and halts on the route.

In accordance with clause (ii), respondent No. 1 had fixed the minimum and maximum number of daily services to be maintained by the petitioning Company in relation to this route and the same had been incorporated in the approved time-table. According to clause (iii), this approved time-table had to be exhibited by the petitioning Company at the places mentioned in this clause. There conditions are specifically mentioned at serial Nos. I and II of the typed "conditions for stage carriage permit" attached with the permit granted to the petitioning-Company, and are in following terms-

"I. Time-table approved by the State Transport Authority will be observed and exhibited.

II. The minimum and maximum number of daily trips shall be as per approved time-table and number of trips shall not be less than or more than the number sanctioned in the approved time table vide section 48(3)(2)."

The time-table, which has been approved by respondent No. 1, clearly mentions the various daily return services running between Delhi-Palwal, Delhi-Ballabgarh, and Delhi Faridabad Township. These daily return trips, according to the approved time-table, had to be maintained by the petitioning-Company and this time table had to be duly observed and exhibited. This approved time table and its observance, in my opinion, definitely forms one of the conditions of the permit

granted to the petitioning Company and failure to comply with this time-table would result in the breach of the conditions of the permit. This view of mine finds support in *K.M. Thomas Vs. State Transport Authority, Kerala and Others*, wherein it was held at page 113 that after a consideration of the change effected by the Amending Act, 100 of 1956, the fixation of timings, at the time of the grant of the permit, was now treated as a conditions of the permit. A similar view was taken by a Division Bench of the Nagpur High Court in AIR 1944 89 (Nagpur) wherein it was observed:

"In our opinion, the fair-table and time-table mentioned in S. 48(d)(ii) are the fare-table and time-table approved by the Regional Transport Authority and forming one of the conditions of the permit. Rule 70 provides for the variation of the conditions of a permit; they cannot be varied by the Company without the sanction of the Regional Transport Authority."

(6) The contention of the learned counsel for the respondent that, according to clause (iii) of Section 48(3) of the Act, the condition of the permit was merely to exhibits the approved time-table in the manner mentioned in this sub-clause, may be true. But the learned counsel had ignored the provisions of sub-clause (ii) of this very sub-section. A reading of the same, along with conditions Nos. I and II, mentioned in the typed conditions attached with the permit, would show that the approved time-table and its observance was a condition of the permit, as already mentioned by me above.

(7) According to clause (xxi) of sub-section (3) of Section 48 of the Act, any variation in the condition of the permit can be made by the State Transport Authority after giving notice of not less than one month. This has not been done in the present case. Learned counsel for the respondents urged that such an error was not so grave that it should call for interference under Article 226 of the Constitution. Undoubtedly, the statutory requirement of the notice being given to the petitioning-Company before changing the conditions of the permit granted to them has not been complied with in the present case. It is possible that respondent No. 1 might not have passed the impugned resolution after hearing the petitioner-Company on notice being issued to them. They had a right to ply their vehicles according to the approved time-table. The stoppage of their services on Delhi-Faridabad Township route has caused great financial loss to them. The non-issue of the notice, as required by the statute, has, in my opinion, resulted in manifest injustice to the petitioning Company and this Court can interfere under Article 226 of the Constitution.

(8) As regards the argument that the petitioning-Company had no right to run services on Delhi-Faridabad Township route, it will be observed that in 1954, when the permit was granted to the petitioning-Company for the entire Delhi-Palwal route, there was no separate route for Delhi-Faridabad or Delhi Ballabgarh. Both these places, viz. Faridabad and Ballabgarh, were intervening stations and respondent No. 1 had duly approved the time-table for running services to these places for the past so many years. As already mentioned

above, the approved time-table and the observance of the same had become a condition of the permit and no variation could be made therein without proper notice to the petitioning-Company.

(9) Learned counsel for the petitioner then contended that the grant of six temporary permits for a period of four months each to respondent No. 2 for running services on Delhi-Faridabad Township was contrary to law and was without jurisdiction. He argued that the provisions of Section 62 of the Act had not been complied with, because it had not been proved that the permits had been granted to meet any particular temporary need. According to his submission, the need was a permanent one and was being met by the existing services of the petitioning-Company for the last so many years. Learned counsel for the respondents, on the other hand, argued that the order passed by respondent No. 1 granting the temporary permits under S. 62 of the Act was a purely administrative order and, therefore, the High Court could not interfere with the same under Art 226 of the Constitution.

It was also urged that even if it be held that respondent No. 1 was acting in a quasi judicial manner; while granting temporary permits under S. 62 of the Act, no interference was called for under Article 226 of the Constitution, because respondent No. 1 was the ultimate authority for deciding whether there was a particular temporary need for the grant of such permits or not. Its decision might be right or wrong, but that did not give any jurisdiction to this Court to reverse the same. It was next contended that the petitioning-Company should have filed a revision against this resolution the alternative remedy provided under the statute, could not invoke the jurisdiction of this court under Article 226 of the Constitution.

(10) Section 62 of the Act is in the following words:

"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:

- (a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or
- (b) for the purposes of a seasonal business, or
- (c) to meet a particular temporary need, or
- (d) pending decision on an application for the renewal of a permit.

Provided that a temporary permit under this section shall, in no case, be granted in respect of any route or area specified in an application for the grant of a new permit u/s 46 or S. 54 during the pendency of the application:

Provided further that a temporary permit under this section shall, in no case, be granted more than once in respect of any route or area specified in any application for the renewal of a permit during the pendency of such application

for renewal, and may attach to any such permit any condition it thinks fit."

It may be mentioned that regular applications are given for the grant of temporary permits. According to Rule 4.7 of the Delhi Motor Vehicles Rules, 1940, every application in respect of temporary permits, has to be in Form "P-Tem. A." It follows that if more than one person have applied for temporary permits and there is competition between them, the State Transport Authority has to decide as to which of those applicants deserves to be granted the permits. In my opinion, the State Transport Authority, while granting temporary permits, has not been given unfettered discretion and barring Section 57 of the Act, which has been specifically excluded by the provisions of Section 62 of the Act, all other relevant provisions in the Act will be taken into consideration by it. The provisions of Section 47, which deal with the procedure to be adopted by the State Transport Authority in considering the applications for grant of stage carriage permits, have to be borne in mind by the same Authority, while granting temporary permits also. Moreover, the State Transport Authority can grant temporary permits only if any one of the conditions, mentioned in Section 62 itself, is complied with. In addition, the Act itself provides a regular machinery for appeals and revisions against the orders passed by the State Transport Authority. All this would show that the State Transport Authority acts in a quasi-judicial manner, while granting temporary permits. In *Veerappa Pillai Vs. Raman and Raman Ltd. and Others*, it was observed by their Lordships of the Supreme Court as under:

"The Motor Vehicles Act is a statute which creates new rights and liabilities and prescribes an elaborate procedure for their regulation. No one is entitled to a permit as of right even if he satisfied all the prescribed conditions. The grant of a permit is entirely within the discretion of the transport authorities and naturally depends on several circumstances which have to be taken into account. The Regional Transport Authority and the Provincial Transport Authority are entrusted u/s 42 with this power. They may be described as administrative bodies exercising quasijudicial functions in the matter of the grant of permits."

It may be mentioned that no distinction was made by their Lordships between the grant of regular and temporary permits, while making the above observations. As a matter of fact, a general proposition of law has been laid down that the authorities under the Motor Vehicles Act in a quasijudicial manner in the matter of grant of permits. Similarly, in *Kotah Transport Ltd. Vs. Regional Transport Authority and Others*, , it was held as under:

"Under these circumstances, it is not right to say that the action of the Regional Transport Authority is purely executive or administrative, in issuing temporary permits u/s 62. In our opinion, the function u/s 62 is a quasi-judicial function and it has got to be exercised in accordance with the provisions of the procedure laid down in the Act itself. If an authority, which is to act judicially or quasi-judicial, acts illegally or with material irregularity a writ of "certiorari" would lie. In the present case, the Regional Transport Authority has acted in total disregard of the

provision of Section 62, Motor Vehicles Act and it has misused its power which it had to exercise in its discretion in accordance with the provisions of law. The requirements of Section 62 did not exist to enable the authority to issue temporary permits."

I would, therefore, hold that respondent No. 1 was acting in a quasi-judicial manner, while granting temporary permits to respondent No. 2, under S. 62 of the Act.

(11) It is common ground that, according to respondent No. 1, the temporary permits in the present case had been granted to respondent No. 2 to meet a particular temporary need, as mentioned in sub-clause (c) above. The question, therefore, naturally arises whether there was any particular temporary need on the Delhi-Faridabad Township route, which would justify the grant of these temporary permits. It is undisputed that the petitioning-Company was regularly plying its buses on this route for a large number of years in accordance with the approved time-table. The need of the travelling public on this route was, therefore, a permanent one, which was being met by the existing services of the petitioning-Company for all these years. As a matter of fact, in the inter-State agreement (annexure 11) itself it is mentioned that respondent No. 2 will undertake exclusive operation of this route for the next five years until 31-3-66, which incidentally is the maximum period for a regular permit. It is also noteworthy that the application for a regular permit was withdrawn by respondent No. 2 and soon after an application for temporary permits was filed by them.

It is not understood how the replacement of the regular and permanent services of the petitioning-Company by the temporary services of respondent No. 2 would convert the permanent need of the travelling public into a particular temporary need. No material has been brought on the record by the respondents for holding that there was any particular temporary need for the issue of these permits. If, on the basis of facts proved on the record, respondent No.1 had come to a finding that there was a particular temporary need for issuing temporary permits, then perhaps this Court would not be justified in interfering with that finding. But, in the present case, as I have already mentioned above there is no material on the record for holding that there was a particular temporary need. Mere assertion by respondent No. 1 that there was a temporary need of the resident's of Faridabad, without any basis, would not be a compliance with the statutory provisions of Section 62 of the Act in order to justify the grant of temporary permits. Under such circumstances, the High Court is justified in issuing a writ of certiorari and quashing the impugned resolution. Reference in this connection may be made to the decision in *Kishanchand Narsingdas v. Appellate Authority, M. B. AIR 1956 MP 231*, wherein it was held:

"The Regional Transport Authority and the Appellate Authority under the Motor Vehicles Act are administrative bodies exercising quasi-judicial function in matters of granting permits. They are statutory bodies and have, in considering

the questions of granting permits, to act according to the provisions of the Motor Vehicles Act. An error on the fact of the proceedings has been recognised as one of the grounds for the issue of a writ of certiorari.

If a judicial or quasi-judicial tribunal acts on material which is not on record or acts on assumption contrary to the facts on record, its order is liable to be set aside by a writ of certiorari. If the Appellate Authority proceeded on the assumption that the facts on record support them, and there is no foundation for this assumption, it must be held that in assuming these facts there was an error apparent on the fact of the record."

To similar effect are the observations made in *Sridhar Raj v. Secretary Regional Transport Authority, Kolar* AIR 1959 KA 120:

"Where the Regional Transport Authority in passing the orders granting temporary permits has failed to apply its mind to find out whether one or other of the circumstances mentioned in Section 62 Motor Vehicles Act, did exist, he acts without jurisdiction and the grant of the temporary permits is liable to be quashed in a petition under Article 226, Constitution of India, although the aggrieved party has not exhausted the remedies available under the Motor Vehicles Act.

When the Regional Transport Authority taken into consideration the matters, which according to the fact are relevant, and comes to a decision, then the redress of grievances or the correction of errors should generally be sought in the remedies found in the statute itself. But, when the authority ignores the matters, which under the Act are relevant and should be taken into consideration, and thereby acts wholly without jurisdiction, the powers of the High Court under Article 226 can be properly invoked."

(12) As regards the contention of the learned counsel for the respondents that the petitioning-Company should have filed a revision against the impugned resolution, it may be mentioned that this point was not taken in the written statement filed by the respondents. Moreover, a revision under the Motor Vehicles Act is competent under S. 64-A of the Act. In that section the revising authority is the State Transport Authority. In the present case, the impugned resolution was passed by the State Transport Authority itself. It is, therefore, obvious that the State Transport Authority could not revise its own order and no revision was, therefore, competent u/s 64-A of the Act.

(13) It was then half-heartedly contended by the learned counsel for the respondents that the impugned resolution was appealable under S. 64 of the Act. This point also was not taken by the respondents in their written statements. However, as at present advised, I am doubtful if an appeal lay in such a case. Reference in this connection may be made to a decision in *Calicut Wynad Motor Service (Private) Ltd. Vs. State Transport Appellate Tribunal, Trichur and Another*, wherein it was held:

"No appeal lies against the grant of temporary permit clause (a) of Section 64(1). A temporary permit is granted without notice and without heading objections, and hence no appeal will lie under clause (f) the only other possible clause."

But even if an appeal lay against the impugned resolution. I am of the opinion that since respondent No. 1 acted without jurisdiction in granting temporary permits without applying its mind whether the circumstances mentioned in Section 62(c) existed or not, the High Court would be justified in quashing the impugned resolution by way of a writ of certiorari, even though the petitioning-Company had not exhausted the remedies available under the Act (see in this connection AIR 1959 MYS 120).

(14) In view of what I have said above, I would accept this petition and quash the impugned resolution dated 7-6-61 passed by respondent No. 1. In the circumstances of this case, however, I will leave the parties to bear their own costs in this petition.

(15) Petition allowed.