

(2005) 07 CAL CK 0034

In the Calcutta High Court

Case No : Writ Petition No. 12684 (W) of 2004

Dipika Naskar and Others

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 29-07-2005

Acts Referred:

General Clauses Act, 1897 — Section 21

Motor Vehicles Act, 1988 — Section 2(38), 72(2), 72(2)(i), 72(2)(iii), 72(2)(xii)

Citation : (2005) 07 CAL CK 0034

Hon'ble Judges : Aniruddha Bose, J

Bench : Single Bench

Advocate : A. Chatterjee and Mr. M. Dasgupta, for the Appellant; Dilip Kumar De for State, Mr. P. Deb Roy and Ms. Rita Sinha, for the Respondent

Final Decision : Allowed

Judgement

A. Bose, J.—The petitioners before this Court are bus operators in route No. S.D-9 and S.D- 9/1. This route covers the distance between Nurpur and Alipore Zoo via Esplanade, Central Bus Terminus (CBT). This route was originally between Nurpur and Alipore Zoo, but, had subsequently been extended till the (C.B.T), Esplanade. Alipore Zoo, however, was retained as one terminal point, the other being Nurpur. The petitioners" complain before this Court is against an order of the Regional Transport Authority (RTA), South 24 Parganas, Alipore passed on 22nd July, 2004. By this order, the RTA has directed cancellation of the permits of the petitioners in respect of the extended portion being "via CBT, Esplanade." The petitioners were directed by the said order to surrender their permits before the secretary RTA South 24 Parganas within a period of fortnight therefrom for necessary action.

2. The controversy involved in the instant petition originates from a representation made by the respondent No. 4, on 19th July, 2002 before the said RTA alleging that the petitioners" vehicles were using the C.B.T. Esplanade as their terminus. The respondent No. 4 is an operator in route No. 210 which more

or less traverses the same route as that of the petitioners, with Esplanade as one of its terminus. The respondent No. 4 thereafter filed a writ petition before this Court for redressal of his grievance, being W.P. No. 5375(W) of 2003 (Abdul Kalam Mullick v. West Bengal & Ors). This writ petition was disposed of by a Hon"ble single Judge of this Court on 4th July, 2003 with the following direction:

In such circumstances, this writ petition is disposed of by directing the Regional Transport Authority, South 24-Parganas to consider the petitioner's complaint as early as possible, preferably within three weeks from the date of communication of this order and if it is found that the operators of route No. SD-9 are playing their Buses contrary to their permits, appropriate steps are to be taken by the Regional Transport Authority to prevent such infraction of the conditions of permit.

3. Thereafter, the Transport Authority had issued a memorandum addressed to the secretary of the SD-9 and SD-9/1 bus syndicate on 19th September, 2003. This memorandum was in the nature of a show cause notice. There was subsequent exchange of correspondence between the Secretary of the petitioners' association and the Transport Authority on the subject-controversy which eventually led to the passing of an order by the Transport Authority cancelling the extended portion of the route to Esplanade from the permit of the operators of Route No. SD-9 and SD-9/1. This order was passed on 2nd April, 2004 after issuance of a notice in the nature of "show-cause" addressed to the "Secretary, Route No. SD-9 and SD-9/1."

4. This order was challenged before this Court by the individual operators of the said route by filing a writ petition being W.P. No. 6888(W) of 2004. By an order dated 23rd April, 2004 an Hon"ble single Judge of this Court set aside the order of cancellation. The operative part of this order is reproduced below:

In view of the aforesaid undisputed fact, I find substance in the submission of Mr. Chatterjee that the Regional Transport Authority, 24 Parganas (South) acted illegally in taking decision for cancellation of a portion of the extended route without giving any opportunity of hearing to the individual permit-holders of the routes.

I, thus, set aside the annexure-P/7 to the instant writ application.

This order, however, will not stand in the way of the Regional Transport Authority, 24 Parganas (South) from taking necessary steps after complying with the provisions of the Motor Vehicles Act and the Rules framed thereunder by giving individual notice to all the permit-holders against whom there is allegation of violation of permits.

I make it clear that I have not gone into the question whether individual permit-holders have really violated the condition of permit and it is for the Regional Transport Authority concerned to take fresh decision after giving opportunity of hearing to the individual permit-holders and the complainant afresh.

The writ, application is thus disposed of with the above direction.

5. Subsequently, on 13th July, 2004 a fresh memo was issued by the Transport Authority against the individual permit holders of the SD-9, SD-9/1 route which was again in the nature of a notice to show cause. The substance of the charge in this memorandum was that the authorities had taken cognizance of the complaint against the individual permit holders filed by the operators of Route No. 210 that such permit holders were terminating their buses at CBT, Esplanade instead of transiting only and the individual permit holders were required to show cause as to why necessary action under the rules shall not be taken against them for infringing the conditions of the route permit issued in their favour.

6. It appears that hearing was held in pursuance of this memorandum to which the petitioners had replied to and after conclusion of such hearing the order dated 22nd July, 2004 was passed. This is the order, which is under challenge in the present writ petition.

7. The thrust of the attack of the petitioners against the impugned order mainly rests on three grounds. It has been submitted that the charges against the petitioners are vague as different types of allegations have been made by the Transport Authority in different memoranda issued against them. In the memorandum of 13th July, 1999, the allegation is "infringement" of the conditions of the route permit. In the impugned order, the finding (which is under challenge) is that "conditions of the permit have been violated....". In the earlier proceeding, the final order in which was set aside by this Court, the memorandum (dated 27th February, 2004) contained the allegation of "non-compliance of permit conditions." Secondly, it has been contended that in passing the impugned order the Transport Authority has relied on two documents which were not made available to the petitioners. These two documents are two reports, one of the Deputy Commissioner (Traffic) Calcutta Police dated 10th March, 2004 and the other of the Director of Public Vehicles Department, Calcutta also dated 10th March, 2004. It has been submitted that there has been no violation of condition of permit since there has been no timetable issued in the case of petitioners' vehicles. It is the case of the petitioners that they can halt at any specified stoppage for any length of time in the absence of timetable. The case of the petitioners on this count is that there being no allegation of deviation from the route specified for the petitioners, stoppage for any length of time at any point within the specified route would not constitute violation or condition of permit.

8. The third limb of the petitioners' case is mainly on jurisdictional ground. It has been contended that section 86 of the Motor Vehicles Act, 1998 (the Act) empowers the Transport Authority to cancel the permit or suspend the same, but the Transport Authority has no jurisdiction to pass an order which tantamount to disallowing the petitioner from running a portion of the route. It has been submitted that the expression "cancel" as used in section 86(1) of the Act implies cancellation of the entire permit not partial cancellation.

9. The learned advocate of the petitioners has relied on the decision of Smt. Rampati Jaiswal Vs. State of U.P. and others, for explaining the expression "condition of permit" and the decision of New Samundri Transport Co. (P) Ltd. Vs. The State of Punjab and Others, for the proposition that in a proceeding where charges are not specific, no action can be taken. The locus standi of the Respondent No. 4 to raise the complaint has also been questioned by the writ petitioners. But the controversy on locus standi is not in issue in the present writ petition.

10. On behalf of the Transport Authority, the impugned order has been defended on various grounds by way of oral submissions, as no affidavit has been filed. It has been submitted that the original route of the petitioner had been specifically extended and the authority has the power to delete from the route the extended portion and such power or authority can be derived from both u/s 21 of the General Clauses Act and section 72(2)(xii) of the Motor Vehicles Act 1988. In support of such contention the learned counsel for the Transport Authority has relied on the judgments delivered in the case of G.K.T. Bus Service, Palani Vs. State Transport Appellate Tribunal, Madras and Another, and the case of Musthafa Vs. R.T.A., Malappuram, . On the issue of the jurisdiction or power of the authorities to cancel portion of the route, it has been contended that such power is implied in section 86 of the Act. As regards non-furnishing of the materials, being the two reports referred to above, it has been contended that this was not a serious infirmity that would render the order invalid, as the petitioners were aware of these two reports at the time of hearing the petitioners in pursuance of the memorandum referred to above, and it has been denied that the charges were either contradictory or vague.

11. It has also been submitted that stopping at the Esplanade C.B.T. for a long time has been established by two independent authorities being the Deputy Commissioner of Police (Traffic) and the Director, Public Vehicles Department, Kolkata. The report of the Deputy Commissioner, Traffic had indicated that the bus operators of Route SD-9 and SD-9/1 were found to be halting for an average of 29 minutes at the Esplanade C.B.T. On the basis of these reports, the Transport Authority came to a finding that these operators were terminating their vehicles there, and not transiting through the Esplanade (C.B.T.). This was held to constitute breach of condition specified in the permit by the R.T.A.

12. The learned advocate for the private respondent, at whose instance the proceeding against the petitioners had originally been initiated and subsequently continued has supported the arguments advanced on behalf of the Transport Authority and in particular relied on the decision delivered in the case of K. Pamanna Vs. The State Transport and Appellate Tribunal, A.P., Hyderabad and others, . This Judgment has been cited in support of the argument of the respondents that the power to vary the conditions of a permit is incidental to the main power of granting the permit.

13. I propose to deal with the issue of the legality of the charges first and test

whether the vagueness of charges or their alleged contradictory nature renders the impugned order invalid. The charges which were indicated in the memorandum issued to the Secretary of the petitioners' association are no more relevant since the proceeding initiated on the basis of such charge has been subsequently quashed by this Court. The action against individual permit holders, it appears, was started under memorandum No. 5500(36/MV) dated 5th July, 2004. A representative copy of the notice addressed to the first petitioner has been annexed as "P7" to the writ petition and it has been submitted that in respect of all other petitioners, similar notices were issued. This notice however, does not specify any charge against the addressee. In the next memorandum addressed to the same petitioner, that is petitioner No. 1 bearing No. 5808(30/MV) dated 13th July, 2004, the petitioner No. 1 has been directed to show cause as to why necessary action under the rule shall not be taken against her for infringing conditions of the route permit issued to her. This memorandum again, it has been submitted, is a representative copy of the memoranda issued to the other petitioners. The complain against the first petitioner, as has been indicated in that memorandum is that the said petitioner is terminating her buses at CBT, Esplanade, instead of transiting through that point. In the impugned order there is a finding, not of infringement of the provisions of the route permit but of violation of the provisions of the permit.

14. The case of the petitioners on this count is that infringement of the conditions of route permit does not constitute an offence attracting proceeding and punishment contemplated in section 86 of the Act. To expose oneself to the punishment contemplated in section 86(1)(a) of the Act, there must be a finding of breach of condition of the permit. In my opinion, however, the expression "infringement" of the condition of the route permit or "violation" of the provisions of the permit in fact convey the same meaning as "breach of conditions of permit" and the charge against the petitioners cannot be quashed on such mere play of semantics. On the issue of vagueness of charges, I am also not inclined to agree with the submissions made on behalf of the petitioners. In my opinion, the charges against the petitioners have been clearly reflected in the impugned notice. The charge against the petitioners in the instant proceeding is that instead of transiting through the CBT (Esplanade), the petitioners were terminating their buses at that point. From a plain reading of the impugned memorandum, being annexure "P8" to the writ petition, it is not difficult to comprehend this allegation, so as to enable the petitioners to respond to such charge. The case of New Samundri Transport Co. (P) Ltd. (*supra*) cannot be made applicable in the present case. I am of the view that there is no infirmity in framing or wording of charges against the petitioners.

15. The second ground of attack is that the petitioners were not provided with the reports on the strength of which the impugned order had been passed. This has been pleaded in paragraph 10 of the writ petition. The relevant portion of the pleading contained in the said paragraph is reproduced below:

...Moreover, it is stated that the aforesaid two reports were never handed over to your petitioners and they were kept in dark about the same accordingly they could not answer anything on this aspect. The existence of the said report has come to the knowledge of your petitioner after receiving the impugned order....

16. The respondent authorities have not filed any affidavit in opposition denying the allegation about non-furnishing of the reports. The records of the proceeding, however, was produced in course of hearing and from such records, it could not be established that these two reports were made available to the petitioners. The learned counsel for the Transport Authority, however, submitted that the petitioners had become aware of the reports at the time of hearing of the show cause notice.

17. From the impugned order, it is apparent that the Transport Authority primarily relied on these two reports being that of the Deputy Commissioner of Calcutta Police (Traffic) and the Director, Public Vehicles Department, Calcutta. These two reports have played a crucial role in the decision making process of the Transport Authority while considering the case of the petitioners and passing the impugned order. It does not appear from the impugned order that the Transport Authority had relied on any other source of information in passing the impugned order. It also does not appear from the order that the Transport Authority through any other independent means or sources verified the authenticity of the content reports. This being the position, in my opinion, the authorities ought to have given opportunity in advance, i.e. opportunity prior to the hearing, to the petitioners to deal with the said reports. The failure to do so in my opinion has resulted in failure to comply with the principles of natural justice, which is an integral part of the justice dispensation system in this country. The case of *G.K.T. Bus Services (supra)*, is an authority for the proposition that personal hearing is not a pre-requisite for cancellation or suspension of permit under the 1939 Act. But this Judgement cannot sustain the respondent authorities' stand that an operator charged with violation of law can be proceeded against without being given access to the materials on which authorities rely on to cancel his permit. Unless a party is given such opportunity, in my opinion that would result in failure to afford fair hearing. Even if the petitioners were made aware of the said report at the time of hearing, that would not have afforded them sufficient opportunity to deal with the content of such report. The following passage from the decision of the Judicial Committee of the Privy Council in the case of *Kanda v. Government of the Federation of Malaya*, (1962) AC 322 sums up the requirement of affording such prior opportunity in an administrative action.

If the right to be heard is to be a real right which is worth anything, it must carry with it a right in the accused man to know the case which is made against him. He must know what evidence has been given and what statements have been made affecting him and then he must be given a fair opportunity to correct and contradict them....

18. In a quasi-judicial proceeding like the one which is the subject of dispute in the present proceeding, in my opinion, the requirement of fair hearing should have been of the same standard as observed in that decision. It is apparent from the records and pleading, however, that this standard was not maintained by the Transport Authority while proceeding against the petitioners.

19. There are two other points on which argument has been advanced extensively. Under normal circumstances, I would have avoided deciding these points, as I am already satisfied that the impugned order cannot be sustained for the reason given in the preceding paragraph. But since substantial argument has been advanced on these two issues as well, and for ultimate resolution of the subject-controversy these two issues would have to be resolved, I am of the view that these aspects of the controversy also may be determined in the present proceeding.

20. The first of these two points is whether a long halt on a transit point within a route would constitute termination of the route at that point and if it constitutes termination, whether that would constitute breach of condition of the permit.

21. On behalf of the petitioners, argument has been advanced that since no timetable has been given in the case of the petitioners, stoppage, no matter how long it is for within the route would not constitute termination. It is the admitted position that in the case of the petitioners no timetable has been given.

22. The power to impose conditions by the Transport Authority on the operators of stage carriage vehicle is derived from section 72(2) of the Act. Section 72(2) (i) of the Act empowers the Authority to attach to the permit of a stage carriage "a condition that the vehicles shall be used only in a specified area, or on a specified route or routes."

23. For the purpose of adjudication of the subject-dispute, provisions of section 72 (2)(i)(iii), (iv) and (v) of the Act is also relevant and these provisions are reproduced below:

72(2) The Regional Transport Authority, if it decides to grant a stage carriage permit, may grant the permit for a stage carriage of a specified description and may, subject to any rules made under this Act, attach to the permit any or more of the following conditions, namely:

(iii) The minimum and maximum number of daily trips to be provided in relation to any route or area generally or on specified days and occasions;

(iv) that copies of the time-table of the stage carriage approved by the Regional Transport Authority (RTA) shall be exhibited on the vehicles and at specified stands and halts within the area;

(v) that the stage carriage shall be operated within such margins of deviation from the approved time table as the Regional Transport Authority (RTA) may from time to time specify;

24. In section 2(38) of the Act the expression "route" has been defined to mean a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another. The expression "terminus" again has not been defined in the Act. In the permit of the first petitioner, the route is specified in pursuance of the power conferred on the Regional Transport Authority u/s 72(2)(i) of the Act. But no condition as contemplated in sections 72(2)(iii), (iv) and (v) of the Act has been imposed.

25. The form of permit being Form V, Part A also contains a column being item No. 7 for specifying the particulars against the sentence "Routes/Area for which the permit is valid:-." Column 10 of this statutory form contains provision for specifying particulars of timetable to be observed, if any.

26. In Form V, part B of the permit of the first petitioner, which has been annexed to the writ petition, against the column "route", the following expressions has been used:

SD-9 & SD-9/1, Nurpur to Alipore Zoo via Esplanade CBT Sarishahat Maidan Amtala." In column 5, the expression "conditions" has been used in print and column 6 provides for stipulating "Special Conditions". Against none of these columns, any timeframe for halt in a particular stoppage has been indicated. Also annexed to the petition as part of Annexure "P1" is FARE TABLE which shows the distance between individual stoppages specified therein and the fare between such stoppages to be charged by the petitioner but the time frame to be followed by the concerned vehicle in such stoppage is not indicated there. There is no use of the expression "terminus" or "termini" in either of these two statutory forms.

27. In my opinion from the Statutory Forms, it is apparent that so far as route specified in column 7 of Form V, Part A is concerned, to constitute breach of conditions therein, one should be guilty of deviation from the line of travel specified against that column. Stoppage of a certain length of time in the approved route cannot constitute breach of contention unless the timetable is approved and the requirement of timetable to be observed as indicated against column 10 of Form V, Part A is breached.

28. In the light of such factual position and the statutory provisions, can it be said that the petitioners have breached any conditions of permit? The charge against the petitioners is that they are breaching conditions of permit, by using a transit point as a terminus. Even if it is presumed that long stoppage of Esplanade C.B.T. amounts to using it as a terminus, in my opinion, there would be no breach of condition of permit.

29. As far as fixing of route is concerned, the Transport Authority can assign route to stage carriages in exercise of power u/s 72(2)(i) of the Act. Under the provision, a stage carriage permit holder can be mandated to use the vehicle in a specified route or area. In Form V Part B of the permit, the route is specified. There is no allegation of deviation from such route. This condition, however, is silent on time to be followed by such vehicle.

30. The legislature has conferred the power on the Transport Authority to regulate the time to be maintained by a vehicle u/s 72(2)(iv) and (v), and partly u/s 72(2)(iii) of the Act. The authorities in the present case have not exercised its power under these provisions so far as the petitioners are concerned. The expression "terminus" or "terminal" used in the said Act cannot be construed with reference to time spent by an operator in respect of his or her vehicle there, having regard to the fact that there is specific provision in the statute empowering the Transport Authority to fix time limit for a vehicle in individual stoppages. If such power has not been exercised, which is the position in the present case, on the basis of long stoppage in a transit point, it cannot be held that an operator has changed one's terminus, and thereby violated conditions of permit.

31. I am of the view that unless there is deviation from the route or if a vehicle does not pass through this allocated route including the terminus, there would not be any breach of condition of permit, provided of course, there is no breach of timetable allocated to an operator. The decision of the Hon'ble High Court of Allahabad in the case of Smt. Rampati Jaiswal Vs. State of U.P. and others, relates to a dispute wherein the vehicle was plying off the route. As such the ratio of that decision could not be made applicable in the present case.

32. The next point of controversy which I would like to decide is whether disallowing an operator to ply in a part of the route by requiring him to surrender the permit for cancellation of a part of the route comes within the expression "cancellation" as used in section 86(1) of the Act. The learned counsel for the Transport Authorities has sought to attribute source of such power in section 21 of the General Clauses Act as also in section 72(2)(xxii) of the Motor Vehicles Act, 1988. Reliance has been placed on a full bench decision of the Hon'ble High Court of Andhra Pradesh in the case of K. Pamanna Vs. The State Transport and Appellate Tribunal, A.P., Hyderabad and others, and Musthafa Vs. R.T.A., Malappuram, . But the aforesaid provisions of law and also the authorities referred to above related to the exercise of administrative power by the Transport Authority. In my opinion for exercising quasi-judicial power in the nature contemplated in section 86 of the Motor Vehicles Act, the provisions of General Clauses Act, section 21 and section 72(2)(xii) of the Motor Vehicles Act cannot be made applicable. The provisions of section 72(2)(xxii) and section 21 of the General Clauses Act, 1897 regulate exercise of administrative power by the authorities. But power conferred on an authority u/s 86 is of a different character, authorizing regulatory authorities to punish currant operators. Source of such power has to be from a specific provision of the statute prescribing procedure for ascertaining the veracity of charges levelled against operators and mete out punishment if such charges are established. Power to vary condition of permit u/s 72(2)(xxii) of the Act for public convenience cannot be equated with exercise of quasi-judicial power u/s 86 of the Act. Exercise of power under these two sections operate in different and mutually exclusive spheres.

33. The main defence of the respondents on this point was that power to curtail a route is implied in section 86(1) of the Act, and in support of this submission, reliance was placed on the decisions of *G.K.T. Bus Services* (supra) and *K. Mustaffa* (supra). On this aspect, power conferred on the authority u/s 21 of the General Clauses Act and 72(2)(xxii) of the Motor Vehicles Act were referred to in support of the impugned order. In my view, the Transport Authority passing an Order u/s 86 of the Act cannot shield an order drawing support from the above-referred provisions. The reasons for this I have discussed in the preceding paragraph.

34. Thus the legality of an order canceling a permit for part of route has to be tested on an independent analysis of the provision of section 86(1) of the Act.

35. For the purpose of construing the meaning of the expression "cancel" in section 86(1) of the Act, Rule 158 of the West Bengal Vehicles Rules 1989 may be referred to. This Rule is reproduced below:

Procedure on cancellation, suspension or expiry of permit: (1) The holder of a permit may at any time surrender the permit to the Regional Transport Authority or the State Transport Authority by which it was granted and the Regional Transport Authority or State Transport Authority concerned shall forthwith cancel the permit so surrendered.

(2) When a Regional Transport Authority or the State Transport Authority, suspends or cancels any permit:

(i) the holder shall surrender Parts A and B of the permit within seven days of receipt of a demand in writing by the Regional Transport Authority or the State Transport Authority, and

(ii) The Authority suspending or cancelling the permit shall send intimation to any Transport authority by which the permit has been counter signed and to the Transport Authority in whose area the permit has been extended with effect from the time of suspension or cancellation.

(3) Within fourteen days of the expiry of any permit by the efflux of time, the holder shall deliver Part A and Part B to the Regional Transport Authority or State Transport Authority by which it was issued and the Regional Transport Authority receiving any such permit shall intimate the fact to the Transport Authority or Authorities by which it was countersigned to the Transport Authority to whose area the permit has been extended with effect from the date of expiry provided the Authority concerned refused to entertain the application submitted later in accordance with the rules.

36. This provision contemplates surrender of permit for the purpose of cancellation and there is no indication that on such cancellation the permit would be returned.

37. As the expression "cancel" has not been defined in the Act, I would like to

refer to Black's Law Dictionary", (sixth edition, 11th Reprint- 1997). The expression "cancel" in this dictionary is defined as:

To obliterate; to strike or cross out. To destroy the effect of an instrument by defacing, obliterating, expunging or erasing it. To revoke or recall; to annul or destroy, make void or invalid, or set aside. To rescind; abandon; repeal; surrender; waive; terminate. The term is sometimes equivalent to "discharge" or "pay".

38. All these expressions convey a sense of totality vis-a-vis the instrument that is to suffer cancellation, and part-cancellation does not appear to me to be within the ambit of power that can be exercised by the Transport Authority u/s 86(1) of the Act. Moreover, the expression "curtailment" has been used by the legislature u/s 80(3) of the Act. The expressions "variation", "extension" of the route also has been used by the legislature in section 80(3) of the Act, whereas the expression "variation" has also been used in section 72(2)(xxii) of the Act. It is apparent thus, the use of the expression "cancel" in section 86 was a conscious legislative choice, and meant to carry a meaning different from "curtailment" or "variation" of the route. There has been no discretion left with the Transport Authority to cancel part of the route, which would actually amount to curtailment of the route. The legislature, has laid down the situations where, and the conditions under which a route can be varied or curtailed. Such power to vary or curtail a route has not been conferred on the Transport Authority exercising its quasi judicial power u/s 86(1) of the Act. In the event the Transport Authority is of the opinion that the long stoppage of the petitioners' vehicles at Esplanade C.B.T. was causing public inconvenience, they could always exercise their power u/s 72(2)(xxii) of the Act. The Transport Authority is also empowered to fix timetable in respect of the petitioners' vehicles prescribing the time frame for stoppage at Esplanade (C.B.T.). But without exercising such power, in my view, it is not open to the Transport Authority to impose the penalty on the petitioners on the allegation that long stoppage within the route entails change of terminus, and constitutes breach of condition of permit.

39. I agree with the petitioners' argument that if an order against an operator is passed u/s 86 of the Act, the entire permit would have to be cancelled or suspended. There cannot be cancellation or suspension of the permit for part of the route.

The impugned order being annexure "P10" to the writ petition is accordingly quashed and the writ petition is allowed.

However, there shall be no order as to cost.

Later:

The learned advocate for the respondent No. 4 prays for stay of operation of this order. Considered and having regard to the fact that the interim order which was passed on 4th August, 2004 has continued for such a long time, let there be a

stay of operation of this order for two weeks, with the condition that during this period of two weeks the petitioner shall operate their vehicle strictly and ply their vehicle in terms of the interim order passed in this matter 1st April, 1980.

Urgent Xerox certified copy of this order, if applied for, be given on priority basis.

Writ Petition allowed.