

(1982) 03 AHC CK 0054

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 1998 of 1981 and Writ Petition No"s. 1834 and 1836 etc. of 1981

Mittra Nand Kaushik and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 23-03-1982

Acts Referred:

Motor Vehicles Act, 1939 — Section 43A, 43A(1), 43A(2), 43A(3), 43A(4)
Uttar Pradesh Motor Vehicles (Amendment) Act, 1976 — Section 47, 47(1A), 47(2D)

Citation : AIR 1982 All 451

Hon'ble Judges : K.N. Seth, J;K.C. Agrawal, J

Bench : Division Bench

Advocate : V.N. Khare and L.P. Natani, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

K.C. Agrawal, J.—In this bunch of writ petitions filed under Article 226 of the Constitution, common question as to the validity of the notification dated 10th Jan. 1931, issued u/s 43-A of U. P. Motor Vehicles Act, as amended by the U. P. Legislature, has been raised. The aforesaid Notification reads as under :--

"Whereas the Government of Uttar Pradesh is of opinion that it is in the public interest to grant stage carriage permits (except in respect of routes or areas for which schemes have been published u/s 68-C of the Motor Vehicles Act, 1939), to all eligible applicants. Now, therefore, in exercise of the powers u/s 43-A (the Government of) Uttar Pradesh is pleased to direct that the stage carriage permits (except in respect of routes or areas for which schemes have been published u/s 68-C of the Motor Vehicles Act, 1939), shall be granted according to the provisions of the said Act to eligible applicants and there shall be no upper limit to the number of stage carriages for which permits may be permitted."

2. Chapter IV of the Motor Vehicles Act deals with "Control of Transport Vehicles." Section 47 of the aforesaid Chapter deals with the procedure of a Regional

Transport Authority in considering applications for stage carriage permits. This section, as it stood before the promulgation of U. P. Ordinance 9 of 1972 ran as under :--

" (1) A Regional Transport Authority shall, in considering an application for a stage carriage permit, have regard to the following matters namely :--

(a) the interest of the public generally;

(b) the advantages to the public of the Service to be provided, including the saving of time likely to be effected thereby and any convenience arising from journeys not being broken :

(c) the adequacy of other passenger transport services operating or likely to operate in the near future, whether by road or other means, between the places to be served :--

(d) the benefit to any particular locality or localities likely to be afforded by the service:

(e) the operation by the applicant of other transport services, including those in respect of which applications from him for permits are pending ;

(f) the Condition of the roads included in the proposed route or area, and shall also take into consideration any representations made by persons already providing passenger transport facilities by any means along or near the proposed route or area, or by any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government, or by any local authority or police authority within whose jurisdiction any part of the proposed route or area lies;

.....

(2)

(3) A Regional Transport Authority may having regard to the matters mentioned in Sub-section (1) limit the number of stage-carriages generally, or of any specified type for which stage-carriage permits may be granted in the region or in any specified area or any specified route within the region."

3. Section 43-A was inserted by U. P. Ordinance No. 9 of 1972, which was replaced by the Motor Vehicles (Uttar Pradesh Amendment) Act, 1972 (U. P. Act 25 of 1972). The Statement of Objects and Reasons while introducing the Bill, which took the shape of U. P. Act 25 of 1972, ran as follows :--

"Operators engaged in a race for securing permits for stage carriage on non nationalised routes. Due to limitation on the number of permits this business is controlled by a few persons. Complaints in this regard are made every day. Therefore, with a view to making it easier to secure permits in respect of non-nationalised routes and to introducing simplicity in procedure and to providing greater employment and securing equitable distribution thereof it was considered

necessary to amend Sections 47, 50, 55, 57 and 64 of the Motor Vehicles Act, 1939, suitably. Accordingly, in the public interest and with the aforesaid objects in view the Motor Vehicles (Uttar Pradesh Amendment) Ordinance, 1972, was promulgated. This bill is introduced to replace the said Ordinance."

4. Section 43-A, as inserted by U. P. Act 25 of 1972, in its material particulars, reads as under :--

"(1) The State Government may issue such directions of a general character as it may consider necessary or expedient in the public interest in respect of any matter relating to road transport to the State Transport Authority or to any Regional Transport Authority, and such Transport Authority shall give effect to all such directions.

(2) Without prejudice to the generality of the foregoing power, where the State Government is of opinion that it is in the public interest to grant stage carriage permits (except in respect of routes or areas for which schemes have been published u/s 68-C) or contract carriage permits or public carriage permits to all eligible applicants, it may by notification in the Gazette issue a direction accordingly, and thereupon all transport authorities as well as the State Transport Appellate Tribunal constituted u/s 64 shall proceed to consider and decide all applications, appeals and revisions in that behalf (including any pending applications, appeals and revisions) as if

(a) in Section 47

(i) for Sub-section (1) the following subsection were substituted :--

(1) A Regional Transport Authority shall, in considering an application for a stage carriage permit, have regard to the following matters, namely.....

(a) the interest, of the public generally;

(b) the advantage to the public of the service to be provided, including the saving of time likely to be effected thereby and any convenience arising from journeys not being broken.

(c) the benefit to any particular locality or localities likely to be afforded by the service, and shall also take into consideration any representations made by any local authority or police authority within whose jurisdiction any part of the proposed route or area lies;

(ii) Sub-section (3) were omitted;

4A. Being of the view that public interest demanded grant of liberal permits to all the eligible applicants, on Mar. 30, 1972, the State Government issued a notification u/s 43-A, as inserted by U. P. Act 25 of 1972, for granting of stage carriage permits (except in respect of routes or areas for which schemes had been published u/s 68-C of the Motor Vehicles Act, 1939). The validity of the aforesaid notification was challenged in the High Court in writ Petn. Nos. 2438

and 2599 of 1972. These Writ Petitions were dismissed on 3rd Aug. 1972. Against the dismissal of writ petition no. 2438 of 1972, Hans Raj Kehar and others preferred an appeal in the Supreme Court which also was dismissed on Dec. 4, 1974. The judgment of the said case is reported in Hans Raj Kehar and Others Vs. State of Uttar Pradesh and Others, The Supreme Court observed.--

"Section 43-A inserted in the Motor Vehicles Act by U. P. Act 25 of 1972 is valid. A perusal of Section 43-A shows that the object of the Legislature in inserting it in the Motor Vehicles Act was to make it easier to secure permits in respect of non-nationalised routes. The Section seeks to simplify the procedure for this purpose. It has accordingly been provided that in the case of non nationalised routes if the State Government is of the opinion that it is in the public interest to grant permits to all eligible applicants, it may by notification in the gazette issue a direction accordingly."

5. On Sept. 24, 1975, the State Government rescinded the aforesaid notification dated March 30, 1972, with immediate effect. It was soon followed by promulgation of U. P. Ordinance 35 of 1975 which was replaced by U. P. Act 15 of 1976. The relevant portion of the Statement of Objects and Reasons giving reasons for amending Sub-section (2) of Section 43-A of the Motor Vehicles Act is given below :--

"(5) In 1972 the State Government had accepted a policy of granting bus permits liberally. Reconsideration of the said policy, however, became necessary with a view to checking unproductive capital expenditure and unnecessary consumption of fuel and preventing the elimination of small operators as a consequence of unreasonable competition and to removing difficulties in the implementation of long term plans pertaining to passenger road transport services. It was accordingly considered necessary to amend the Motor Vehicles Act, 1939, to authorise the State Government to issue directions from time to time in regard to the number of permits that may be granted in respect of any route or area, the preference to be given to specially deserving categories and the procedure for grant of permits."

6. U. P. Act 15 of 1976 did not bring about any alteration in Section 43-A (1). The amendment had been brought only in Sub-section (2) of Section 43-A. This was done by means of Section 21 of U. P. Act 15 of 1976. The amending clause is given below :--

21. Amendment of Section 43-A of Act IV of 1939 as inserted by U. P. Act No. 25 of 1972.

In Section 43-A of the Motor Vehicles Act 1939, (hereinafter referred to as the principal Act), Sub-section (2), the following sub-section shall be substituted and be deemed always to have been substituted.

(a) the number of stage carriage or contract carriage permits that may be granted in respect of any route or area;

(b) the preference or the order of preference to be given to or the quota to be fixed for, specially deserving categories such as ex-army personnel, educated unemployed persons, such persons holding driving licences as are members of co-operative societies formed for passenger transport business, persons belonging to the Scheduled Castes and Scheduled Tribes.

(c) the procedure for grant of permits, and for selection from among the applicants, including selection by drawing of lots from among persons belonging to the same category;

(3) Any direction under Sub-section (1) may be issued with retrospective effect.

(4) Where any direction is issued under Sub-section (1) to any Transport Authority then any appeal or revision pending before the State Transport Appellate Tribunal shall also be decided in such manner as to give effect to such direction.

(5) Where any direction is issued under Sub-section (1) with retrospective effect then--

(a) any Transport Authority or the State Transport Appellate Tribunal may review any order passed earlier by it with a view to making it conform to such direction, and may for that purpose cancel any permit already issued :--

(b) any Transport Authority may apply to the High Court for review of any order passed by such Court earlier with a view to enabling such Authority to comply with such direction.

(6) The provisions of this Section shall have effect notwithstanding anything contained in Sections 47, 50 and 57."

7. After the amendment of Section 43-A (2), the State Government issued a notification on March 12, 1976, providing for the number of additional stage carriage permits to be issued on non-notified routes. On 12th Oct. 1977, the Notification dated 12th Mar. 1976, was superseded. The notification of the year 1977 was superseded on 15th Dec. 1978, by another notification issued by the State Government. By this Notification, the Transport Authorities were empowered to raise the limit of a particular route by 15 per cent. On 4th Sept 1980, however, this notification dated 15th Dec. 1978, was also rescinded.

8. In the, mean time, the Parliament emended the Motor Vehicles Act by Act No. 47 of 1978 by introducing amendment in Section 47. By this amendment, the Parliament provided a scheme of preference. By inserting Sub-sections (1), (1A) to (1H) in Section 47, the parliament has provided in the matter of grant of stage carriage permits reservation of certain percentage for the Scheduled Castes and Scheduled Tribes.

9. On Jan. 10, 1981, the State Government issued the notification, which has been impugned by means of the present writ petition. The Notification has already been quoted by us above. By this notification, the State Government has

provided in public interest for the liberal grant of stage carriage permits (except in respect of routes or areas for which schemes have been published u/s 68-C of the Motor Vehicles Act, 1939) to all eligible applicants. Consequent upon the issuance of the said notification, another notification was issued laying down the procedure while considering the applications for stage carriage permits by the State Transport Authority or the Regional Transport Authority, on 23rd Jan. 1981- It has been said in this notification that the aforesaid Authorities shall have regard only to matters referred to in Clauses (a), (b), (d) and (f) of Sub-section (1) of Section 47 of the said Act and shall also take into consideration the representations made by any local authority or police authority within whose jurisdiction any part of the proposed route or area lies. The notification further provides that there shall be deemed to have been made sufficient compliance of the provisions of Section 57 of the said Act, if it intimates the particulars of the applications to such local and police authorities for making representations.

10. Challenging the validity of the notification dated 10th Jan. 1981 Sri Shanti Bhushan, Counsel appearing for the petitioner, urged.

(1) that the impugned notification dated 10th Jan. 1981, was in conflict with the provisions of Section 47 of the Motor Vehicles Act, 1939, as inserted by Parliament by Act No. 47 of 1978.

(2) that the notification dated 10th Jan. 1981, being against the mandatory provisions of Section 43A as well as Section 57, is ultra vires the Act and, therefore invalid.

(3) that the notification dated 10th Jan. 1981, runs counter to the provisions of Section 43-A (2) of the Act and is ultra vires, and

(4) that the notification dated 10th Jan. 1981, is beyond the purview of Section 43-A of the Act.

11. Coming to the first question, the submission of the learned counsel was that as the parliament has made amendments in Section 47 by means of Act No. 47 of 1978, which is a later Act later to Act 15 of 1976 amending Section 43-A, the former prevailed and to the extent of inconsistency Section 43-A shall be deemed to have been repealed or amended. The question that requires to be considered is as to whether there is any conflict between Act 47 of 1978 and Section 43-A, as amended by the U. P. Legislature. The amendments made in Section 47 by the Parliament laid down a scheme of reservation in favour of Scheduled Castes and Scheduled Tribes of certain percentage in granting of stage carriage permits. The question of reservation can arise only in respect of a matter where the things to be distributed or allotted are limited in number. The purpose of making the provision of reservation is to help the needy and economically and socially backward by taking care of their interests. The provision of reservation in granting the permits has been made in favour of Scheduled Castes, Scheduled Tribes and economically weaker sections of the community so that they may not be run down in the race of getting permits by those who belong to the category

of higher grades

12. The question of reservation, however, arises only in those cases where the seats or articles are limited for distribution or allotment but where there is no limit or no fixed number, the question of reservation will not arise. In that event, everybody would be served according to his need and aspiration. Hence, if u/s 43-A a direction has been made for grant of stage carriage permits to all eligible applicants without putting any fixed number for the vehicles to ply, the interest of the Scheduled Castes and Scheduled Tribes would be sufficiently safeguarded. A member of the Scheduled Caste or Scheduled Tribe as well as economically weaker section of the community would as much be entitled to get a permit to run his vehicle as member of any other community. It is where the seats are limited that the Legislature thought of making a provision to reserve the grant of permits in their favour to the extent of 25 per cent. The principle behind reservation in the grant of stage carriage permits employed by the Parliament appears to be the same as in reserving appointments in the government services. If today government services are available in abundance the question of reservation would not arise. It is only on account of the posts being limited that the question of reservation has arisen. So, we are not able to agree with the submission of the petitioners' learned counsel that there is a conflict between Section 43-A, as inserted by the U. P. Legislature, and the amendments made in Section 47 by Parliament in the Motor Vehicles Act.

13. Sub-section (6) of Section 43-A is relevant on the above controversy. It starts with a non obstante clause and has given overriding effect to provisions of Section 43-A notwithstanding anything contained in Sees. 47, 50 and 57. This would clearly mean that the directions issued under Sub-section (1) of Section 43-A would have sway and the provisions of Sees. 47, 50 and 57 are out of way, which would mean that these sections stand "passed over" so long as the directions issued under Sub-section (1) of Section 43-A occupy the field. This is what has been observed by the Supreme Court in *Harishankar Bagla and Another Vs. The State of Madhya Pradesh*, .

14. The argument that the directions mentioned in Section 47 of the Act, as amended by Parliament by Act 47 of 1978, would still be applicable even if Section 43A occupies the field is devoid of substance. Since there is no conflict between Section 43-A and the amendment made by the Parliament by Act 47 of 1978, the question of the latter overruling the former does not arise. Article 254 of the Constitution does not come to the aid of the petitioner and is, therefore not helpful to him.

15. In order to decide the question of repugnancy it must be first shown that the two enactments contained inconsistent provisions, and that they cannot stand together. An obvious inconsistency about the requirement leading to two different legal results when applied to the same facts is the primary requirement for finding out repugnancy. In the instant case, such a position does not arise. Section 43A envisages a scheme of issuing any number of such permits as may

be regarded to be in the public interest. Section 43A would apply to a case where a direction for the grant of free permits on non nationalised routes has been issued, whereas Section 47, as amended by the Parliamentary Act, will apply to a case where the notification u/s 43A has not been issued. We, therefore, find that the two provisions of the Motor Vehicles Act would be operating without coming into collision with each, other. In *M. Karunanidhi Vs. Union of India and Another*, , a Constitution Bench of the Supreme Court has laid down the test for determining the question of repugnancy. Placing reliance on the law laid down in that case, we find that the argument of the learned counsel for the petitioner is unsustainable. u/s 43A equal opportunity to enter into the trade has been conferred on everybody regardless of caste, colour, creed or sex. It sufficiently safeguards the interest of persons belonging to Scheduled Castes, Scheduled Tribes and Backward Classes. No complaint can, therefore, be made on this score. Neither Section 43A nor directions issued thereunder can be said to militate against the policy of reservation enshrined in Section 47 (1A) to (2D).

16. The next argument was that the impugned directions are ultra vires Section 43A (2) of the Motor Vehicles Act. Expanding the argument, it was contended that the power to issue direction in regard to free grant of permits was expressly conferred on the State Government by Section 43A (2) as it was originally brought in the Statute Book by Act 25 of 1972. Since Sub-sections (2) to (6) were omitted and substituted by new Sub-sections (2) to (6), by Act No. 15 of 1976, the power to grant free permits has vanished. To add punch to this argument reliance has been strongly placed on the statement of Objects and Reasons appended to Act 15 of 1976. In this connection, counsel also had emphasised that previous to the coming into force of U. P. Act 15 of 1976, the notification dated 30th March, 1972, had been issued under Sub-section (2) of Section 43A and neither could Section 43A (1), which is a general provision, be taken advantage of for the said purpose before Amending Act 15 of 1976, nor after the amendments made by the same.

17. We have given our thoughtful consideration to the above submission of the learned counsel, but are unable to sustain the same. Section 43A (1) is in very wide terms. It authorises the State Government to issue such directions of a general character as it may be considered necessary or expedient in respect of any matter relating to road transport. The language of the aforesaid provision is wide and takes within itself the power of the State Government to issue a direction for the grant of free permits. The paramount consideration for which the direction for the grant of permits can be issued is public interest.

18. For the view taken above, that a direction of the nature as it was done in the present case could be issued under Sub-section (1) of Section 43A we find support from Sub-sections (3), (4), (5) and (6), as Sub-section (3) refers to Sub-section (1) and provides that a direction under the aforesaid Sub-section (1) can be issued with retrospective effect similarly, Sub-section (4) talks of the direction thought of by Sub-section (1) which would be, if given effect, binding on the

Transport Authorities. Similarly, Sub-section (5) of Section 43A again in its turn speaks of the direction of Sub-section (1) and requires the authorities to pass order in accordance with the directions of Sub-section (1) when issued. Sub-section (6) also, if considered in a proper perspective, would lead to the conclusion that in a case where a general direction under Sub-section (1) has been issued for grant of free- permits, Sections 47, 50 and 57 will not apply. Since all these sub-sections refer to Sub-section (1) of Section 43A to us it appears that the submission of the petitioner's learned counsel that Section 43A (2) can alone be utilised for the purpose of grant of permits and has to be adopted to and the procedure provided therein must be necessarily followed, is not correct.

19. It is further contended that Section 43A (1) being couched in general terms has to be of necessity subordinate to and yield place to Sub-section (2). With due deference to the argument of the learned counsel for the petitioner, we may say it amounts to putting the cart before a horse. Section 43A (1) is generic and Section 43A (2) is its species. Sub- sec, (2) does not destroy the generality of the provisions of Sub-section (1) of Section 43A. If 43A (2) is considered to be the provision exhaustive on the controversy in issue, Sub-section (1) of Section 32A will become redundant. Attempt should be to make both the provisions workable and interpretation should be such that none of the two provisions is rendered redundant.

20. At this place, we may refer to the significance of the expression "without prejudice to the generality of the provisions of Sub-section (1)", used in Sub-section (2) of Section 43A. The opening words of Section 43A (2) are intended to make it clear that Section 43 (1) should not be restricted in its application by reason of anything contained in Section 43A (2). The question as to the interpretation of this expression used in Art 31B of the Constitution, in connection with the scheme of this Article and Article 31A came up for consideration before the Supreme Court in *The State of Bihar Vs. Sir Kameshwar Singh*, . It was observed by Patanjali Sastry, C. J. as follows (at P. 267).

"There is nothing in Article 31-B to indicate that the specific mention of certain statutes was only intended to illustrate the application of the general words of Article 31A. The opening words of Article 31B are only intended to make clear that Article 31A should not be restricted in its application by reason of anything contained in Article 31B and are in no way calculated to restrict the application of the latter article or of the enactments referred to therein to acquisition of estate."

21. In *The State of Bihar Vs. Sir Kameshwar Singh*, , Mahajan, J. (as he then was) observed :

"Article 31-B specifically validates certain Acts mentioned in the Schedule despite the provisions of Article 31A and is not illustrative of Article 31A but stands independent of it."

22. This controversy also came up for consideration before the Privy Council in

AIR 1945 156 (Privy Council) . Lord Thankerton did not agree with the view taken by the Chief Justice of the Federal Court and observed;

"The Lordships are unable to agree with the learned Chief Justice of the Federal Court in his statement of the relative positions of Sub-section (1) and (2) of Section 2, Defence of India Act...In the opinion of their Lordships, the function of Sub-section (2) is merely an illustrative one, the rule making power is conferred by Sub-section (1) and the "Rules", which are referred to in the opening sentence of Sub-section (2), are the rates which are authorised by, and made under, Sub-section (1), the provisions of Sub-section (2) are not restrictive of Sub-section (1), as indeed is expressly stated by the words "without prejudice to the generality of the power conferred by Sub-section (1)." "

23. The same view was taken by the Supreme Court in *Afzal Ullah Vs. The State of Uttar Pradesh*, . In that case, challenge was made to the vires of the bye laws framed by the Tanda Municipality relating to the establishment, regulation and inspection of markets. It was urged that the bye-laws were not justified by any of the clauses of Section 298F of the Municipalities Act. Repelling the contention, Hon"ble Gajendragadkar. J. observed (at p. 268).

"It is now well settled that specific provisions such as are contained in the several clauses of Section 298 (2) are merely illustrative of the generality of the powers prescribed by Section 298 (1)."

24. This view was re-stated and reaffirmed in *Om Prakash and Others Vs. Union of India (UOI) and Others*, . Finally, to quote the words of that great Judge, Justice Cardozo, "we must not sacrifice the general to the particular". (See Cardozo's *The Nature of the Judicial Process*.)

25. Thus, Sub-section (2) is out of our way. The impugned direction dated 10th Jan. 1981, could be held to be ultra vires only when it did not fall within the four corners of Sub-section (1). In our opinion, the direction in question could be issued under Sub-section (1) and was therefore, valid.

26. In the present case, the power conferred by Section 43A (1), as found above, is very wide and under it the impugned direction could be issued.

27. Sri Shanti Bhushan strongly relied upon the Statement of Objects and Reasons given in the Bill which resulted in Act 15 of 1976, and urged that the State Government had on a review of the policy taken a decision against the grant of free permits, hence if Section 43A is interpreted by taking the Objects and Reasons into account, one must find that the impugned notification is against the said provision. Counsel's submission was that any notification issued u/s 43A must have provided for three things, (i) the number of stage carriage, or contract carriage permits that should be granted, (2) the preference or order of preference to be given to or the quota to be fixed for, and (3) reservation for members of Scheduled Castes and Scheduled Tribes. He submitted that as the impugned notification did not provide either for the number of permits to be

granted or for reservation, the same is invalid.

28. We have already quoted the Objects and Reasons of the Bills in the opening part of our judgment. We are, however, unable to agree with the learned counsel. That argument is based on a wrong premise. It is well settled that "Statement of Objects and Reasons" may be availed of when the language used in the section is ambiguous and is incapable of conveying a meaning. In case of ambiguity, some help may be derived by referring to the Objects, but the Objects and Reasons cannot override the effect which follows from the explicit and unmistakable language of its substantive provisions. Such effect is the best evidence of intention. The Statement of Objects and Reasons is not a part of the Act and, therefore, not even relevant in a case in which the language of the Act leaves no room whatsoever to doubt as to what was meant by the Legislature.

29. In *Aswini Kumar Ghosh and Another Vs. Arabinda Bose and Another*, , the Supreme Court had an occasion to consider the purpose for which a Court can refer to the Statement of Objects and Reasons. It observed (at p. 378).

"The Statement of Objects and Reasons, seeks only to explain what reasons induced the mover to introduce the Bill in the House and what objects and reasons may or may not correspond to the objective which the majority of the members had in view when they passed it into the law. The Bill may have undergone radical changes. The Statement of Objects and Reasons appended to the Bill should be ruled out as an aid to the construction of a Statute."

30. In *Pathumma and Others Vs. State of Kerala and Others*, , with regard to the utility of Objects and Reasons, the Supreme Court stated thus :

"We are, however, unable to agree with this argument because in view of the clear and unambiguous provisions of the Act, it is not necessary for us to delve into the Statement of Objects and Reasons of the Act."

31. In our opinion, the intention should be ascertained from the words of the Statute with such extraneous assistance as is legitimate. To us, it does not appear to be legitimate to derive any help from the Statement of Objects and Reasons on which strong reliance has been placed by the petitioner's learned counsel. For accepting the argument of the learned counsel for the petitioner we will have to shut our eyes to Sub-section (1) of Section 43A, which is not possible to be done. The Statement, in our view, may be evidence of the surrounding circumstances and is not a direct evidence of Parliamentary intent. To us it also appears that the Legislature did not want to do away with the power of grant of free permits altogether. It only wanted the said power to be used in some cases in a different way than what it had been done in 1972. For that limited purpose, Sub-section (2) of Section 43A was amended. The amendment made does not take away the power of the State Government in its entirety of issuing a direction for the grant of free permits. Where the State Government did not desire to issue a direction of a general nature for grant of free permits on all non-nationalised routes, it could do so by talking of reservation (sic) to Sub-

section (2) of Section 43A. This was not necessarily required to be done in all the cases. The general power of the State Government to issue permits to all eligible candidates was retained and was not done away with. If the Legislature wanted to do so, the simple thing was to delete Sub-section (1) of Section 43A, The policy of free grant of permits has been lauded by the Supreme Court in *Hans Raj Kehar and Others Vs. State of Uttar Pradesh and Others*, . It said.

".....Larger number of buses operating on different routes would be for the convenience and benefit of the travelling public.....Any measure which, results in larger number of buses operating on various routes would necessarily eliminate or in any case minimise long hours of waiting at the bus stands. It would also relieve congestion and provide for quick and prompt transport service. Good transport service is one of the basic requirements of a progressive society. Prompt and quick transport service being a great boon for those who travel, any measure which provides for such an amenity is in the very nature of things in the public interest."

Thus, the policy of free permits is essentially conceived in public interest

32. It would thus appear that the policy of free permit is essentially conceived in public interest. In such a policy being followed, opportunity of equal participation is available to all.

33. For what we have said above, we have covered all the contentions raised on behalf of the petitioner and find that Sections 47, 50 and 57 were not required to be followed in a case covered by Section 43A. The impugned notification, cannot be declared to be invalid on the ground of the same being in conflict with the aforesaid provisions. Similarly, our view is that the impugned notification is in conformity with and not contrary to Section 43A of the Motor Vehicles Act. We may, however, point out that the notification dated Jan. 23, 81, is consequential to the notification, dt. 10th Jan. 81. Since the scheme of grant of free permits has been held by us to be valid, the State Government had the power to prescribe the procedure to be followed in granting the same which has been provided for by the notification dated Jan. 23, 1981.

For the reasons given above all the writ petitions fail and are dismissed with costs. The stay orders passed in these petitions from time to time are vacated, and the stay applications made in the writ petitions are dismissed.