

**(2003) 08 AHC CK 0213**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 26555 of 2003**

Mohd. Hashim

APPELLANT

Vs

U.P. State Road Transport Corporation and Others

RESPONDENT

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**Date of Decision :** 13-08-2003

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 66, 66(1)

**Citation :** (2003) 6 AWC 4621

**Hon'ble Judges :** R.S. Tripathi, J;M. Katju, J

**Bench :** Division Bench

**Advocate :** C.P. Ghildyal, for the Appellant; Samir Sharma and S.C., for the Respondent

**Final Decision :** Allowed

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## Judgement

M. Katju, J.—Heard learned Counsel for the Petitioner and learned standing counsel.

2. In this case on 8.7.2003 this Court granted three weeks time to the Respondents to file counter-affidavit but no counter-affidavit has been filed so far. Hence, we are disposing of this petition finally.

3. The Petitioner is a permanent permit holder of Vidhuna-Kachaura route within the jurisdiction of R.T.A., Kanpur. It is alleged in paragraph 4 of the petition that 39 permanent permits have been granted on the route apart from two temporary permits. The route is overlapped by the portion Etawah-Vidhuna. It is alleged that out of 39 permanent permit holders only 28 permanent permit holders are operating their vehicles and 11 vehicles are lying idle everyday. On the major portion of the route, another route namely Sindaus-Vidhuna is overlapping and 8 return trips are being granted on this route, which overlaps the Petitioner's route to a considerable distance.

4. It is alleged in paragraph 10 of the writ petition that the U.P. State Road Transport Corporation is operating its vehicles on the aforesaid route as well as

Etawah-Bharthana and Etawah-Vidhuna route without any valid permit issued to the Corporation for operating their vehicles on any portion of the route. The Petitioner moved an application on 12.6.2003 before the District Magistrate, Etawah bringing to his notice the illegal operation of the vehicles of the Corporation and praying they be stopped vide Annexure-2 to the writ petition.

5. Section 66(1) of the Motor Vehicles Act, 1988 states:

"No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used."

6. The above provision is very clear that no owner of a motor vehicle shall use or permit the use of his vehicle in a public place without a permit granted by the R.T.A. or S.T.A. The U.P. State Road Transport Corporation is not exempt from the ambit of Section 66(1). It may be noted that Clause (3) (a) of Section 66 states:

"(3) The provisions of Sub-section (1) shall not apply:

(a) to any transport vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise."

7. The above provision, in our opinion, has no application because the Corporation is a separate entity distinct from the Government. Moreover, the U.P.S.R.T.C. runs the buses as a commercial enterprise. Hence, Clause (3) (a) of Section 66 of the Act has no application.

8. This view has been taken by the Supreme Court in *The Parbhani Transport Co-operative Society Ltd. Vs. The Regional Transport Authority, Aurangabad and Others*, , and also by this Court in *Chandra Kishore and Ors. v. State of U.P.* and another AIR 1963 All 301 (305) . This view has also been taken by this Court in *State of Uttar Pradesh Vs. The Inter-State Transport and Others*, .

9. In view of the above, we issue a mandamus directing that the Corporation will not operate its vehicles on the routes in question without a valid permit under the Motor Vehicles Act.

10. Petition is allowed.