

(2001) 05 AP CK 0005

In the Andhra Pradesh High Court

Case No : WA No. 856 of 199, WP No's. 6636 of 1999, 1550, 18472 of 2000
and WP No. 426 of 2001

N. Swarnalatha

APPELLANT

Vs

Managing Director, APSRTC, Hyderabad and others

RESPONDENT

Date of Decision : 18-05-2001

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 258(1)
Constitution of India, 1950 — Article 14, 19(1), 23, 80
Motor Vehicles (Amendment) Act, 1994 — Section 102, 69(1), 70, 71
Motor Vehicles Act, 1939 — Section 47(1), 57(3), 66(1), 67(1), 68
Motor Vehicles Act, 1988 — Section 68(3)

Citation : (2002) 2 ACC 155 : (2001) 4 ALD 257

Hon'ble Judges : G. Bikshapathy, J;B. Subhashan Reddy, J

Bench : Division Bench

Advocate : M/s. C.V. Ramulu, SC for APSRTC, L. Narasimha Reddy, T. Venkataramana, E. Maruthi Raja, Government Pleader for Transport and Mrs. M. Vinobha Devi, for the Appellant;

Judgement

G. Bikshapathy, J

1. In all these cases the constitutional validity of clause (ca) of sub-section (3) of Section 68 of the A.P. Motor Vehicles Act 1988 is challenged.

2. The writ petitioners filed applications for grant of pucca stage carriage permits on the routes mentioned in their respective applications. Those applications were rejected by the Regional Transport Authority concerned on the ground that the routes for which applications were made for grant of stage carriage permits were not formulated by the Government as required u/s 68(3)(ca) of the Motor Vehicles Act and therefore no permits could be granted to ply the vehicles. Aggrieved by such decisions the present writ petitions have been filed assailing the constitutional validity of Section 68(3)(ca) of the M.VAct.

3. Sri M.V. Ramana Reddy learned senior Counsel appearing on behalf of some of

the writ petitioners. Mr. T. Venkataramana, Mr. Narasimhachari, Mr. Narasimha Reddy, Mr. Maruthi Raja and the learned Additional Advocate-General appearing for the APSRTC advanced elaborate arguments. The learned Counsel for the petitioners submit that M.V. Act, 1939 (hereinafter called the old Act) was found to be unworkable to suit the present day requirement of the public and that after constituting various committees and eliciting opinion from various quarters the old Act was repealed and a new Motor Vehicles Act 1988 was brought into effect with total structural changes in the Act keeping in view the interests of the travelling public and also environment and pollution provisions. They referred to the objects of the Act and submitted that in Motor Vehicles Act 1988 (new Act) the grant of permit has been substantially liberalised and the Supreme Court has gone to the extent of stating that the liberalisation has been effected to such an extent whereby permits could be granted just for asking irrespective of the number of operators in the field. They relied on the decisions of the Supreme Court in *Mithilesh Garg, Vs. Union of India and others etc. etc.*, . In such a situation putting letters on the grant of permits by preconditioning it that the formulation of route by the Government would run contrary to the very object; and therefore the said amendment is illegal contrary offending Article 14 of the Constitution of India. The learned Counsel would also submit that the amending clause (ca) of sub-section (3) of Section 68 of the Act was brought into effect by Act 54 of 1994 with effect from 14-11-1994. Section 68 relates to the powers of the transport authorities namely the State Transport Authority and Regional Transport Authority and their respective functions. Therefore inserting a clause whereby empowering the Government for formulating the route for plying the stage carriages in the said section is a complete misfit and unwanted insertion which has no nexus to the objects sought to be achieved by Section 68 of the Act. In effect they submit that it is an uncontextual amendment without any purpose and therefore it is arbitrary and hit by Article 14 of the Constitution of India. The learned Counsel would rely on the judgment of the Full Bench of this Court in *The Secretary, Regional Transport Authority, Guntur and another Vs. E. Rama Rao and Others*, , to buttress their arguments that in the new Act the law has been substantially altered and the grant of stage carriage permit automatic and application is only a legal formality. They submit that when an application is made nothing more need to be looked into excepting granting the permit. They also submit that the amendment is also liable to be struck down as the Government have not issued any guidelines for formulating the route so as to enable the authorities to grant stage carriage permits. It is also their case that so far no routes have been formulated obviously for the lack of appropriate guidelines and therefore the provision is incapable of being implemented or acted upon. Hence the same is liable to be set aside.

4. On the other hand the learned Additional, Advocate-General appearing for the APSRTC submits that the amendment cannot be said to be illegal and irrational and it has to be construed harmoniously so as to sustain the provision. The very intention of the provisions is to enable the Government to formulate the routes

for the purpose of granting stage carriage permits and therefore unless the routes are formulated there could not be any application for stage carriage permits. While he did not dispute the proposition laid down by the Supreme Court in Mithliesh's case (supra) that the new Act brought liberalised policy of granting stage carriage permits but it cannot be construed as granting the permits without there being any power to reject. Once the authorities are vested with the power to grant they have also power to reject the same by assigning appropriate reasons keeping in view the provisions of the Act. He submits that the provision has to be construed harmoniously so as to sub-serve the cause of the object. He takes assistance from the judgment of the Allahabad High Court in Mithlesh Rani v. State Transport Appellate Tribunal 1997 AIHC 771, wherein the learned single Judge held that the power to create route with effect from 14-11-1988 vested with the State Transport Commissioner on the condition that it will be done on the principle laid down by the State Government and Road Transport Authority cannot assume such power.

5. In the light of the above contentions it has to be considered whether the amendment which is assailed is valid and constitutional. The Motor Vehicles Act 1988 was brought into effect from 14-11-1994. The preamble to the Act itself makes out the case for obvious need to amend the Act and bring out new legislation. It is necessary to extract the statement of objects and reasons which reads thus :

Statement of Objects and reasons :--The Motor Vehicles Act 1939 (4 of 1939) consolidates and amends the law relating to motor vehicles. This has been amended several times to keep it up to date. The need was however felt that this Act should now inter alia takes into account also changes in the road transport technology pattern of passenger and freight movements development of the road net work in the country and particularly the improved techniques in the motor vehicles management.

2. Various Committees like National Transport Policy Committees. National Police Commission. Road Safety Committee. Low Powered. Two Wheelers Committee, as also the Law Commission have gone into different aspects of road transport. They have recommended updating simplification and rationalisation of this law. Several members of Parliament have also urged for comprehensive review of the Motor 4 Vehicles Act 1939, to make it relevant to the modern day requirements.

3. A working Group was therefore constituted in January, 1984 to review all the provisions of the Motor Vehicles Act, 1939 and to submit draft proposals for a comprehensive legislation to replace the existing Act. This Working Group took into account the suggestions and recommendations earlier made by various bodies and institutions like Central Institute of Road Transport Automotive Research Association of India and other transport organisations including the manufacturers and the general public. Besides, obtaining comments of State Government on the recommendations of the Working Group these were discussed in a specially convened meeting of Transport Ministers of all States and

Union Territories. Some of the more important modifications so suggested related for taking care of-

- (a) the fast increasing number of both commercial vehicles and personal vehicles in the country.
- (b) The need for encouraging adoption of higher technology in automotive sector.
- (c) The greater flow of passenger and freight with the least impediments so that island of isolation are not created leading to regional or local imbalances.
- (d) Concern for road safety standards and pollution control measures standards for transportation of hazardous and explosive materials.
- (e) Simplification of procedure and policy liberalisation for private sector operations in the road transport field, and
- (f) Need for effective ways of tracking down traffic offenders.

4. The Supreme Court in M.K. Kunhimohammed Vs. P.A. Ahmedkutty and Others, , has made certain suggestions to raise the limit of compensation payable as a result of motor accidents in respect of death and permanent disablement in the event of there being no proof of fault on the part of the person involved in the accident and also in hit and run motor accidents and to remove certain disparities in the liability of the insurer to pay compensation depending upon the class or type of vehicles involved in the accident. The above suggestions made by the Supreme Court have been incorporated in the Bil.

5. The proposed legislation has been prepared in the light of the above background. Some of the more important provisions of the Bill provide for the following matters namely:

- (a) rationalisation of certain definitions with additions of certain new definitions of new types of vehicles.
- (b) Stricter procedures relating to grant of driving licenses and the period of validity thereof.
- (c) Laying down of standards for the components and parts of motor vehicles.
- (d) Standards for anti-pollution devices.
- (e) Provision for issuing fitness certificates of vehicle also by the authorised resting stations.
- (f) Enabling provision for updating the system of registration marks
- (g) Liberalised schemes for grant of stage carriage permits on non-nationalised routes all India tourist permits and also national permits for goods carriages.
- (h) Administration of the solatium scheme by the Central Insurance corporation.
- (i) Provision for enhanced compensation in cases of "no fault liability" and in hit

and run motor accidents.

(j) Provision for payment of compensation by the insurer to the extent of actual liability to the victims of motor accidents irrespective of class of vehicles.

(k) Maintenance of State registers for driving licenses and vehicle registration.

(1) Constitution of Road Safety Councils.

6. The Bill also seeks to provide for more deterrent punishment in the cases of certain offences.

7. The Notes on clauses explain the provisions of the Bill.

8. The Bill seeks to achieve the above objectives."

Thus the object was to introduce the liberalised schemes for grant of stage carriage permits on non-nationalised routes. All India Tourists permits and also national permits for goods carriages. The Supreme Court has meticulously scanned the provisions of the new Act when it was challenged on the touchstone of Article 19(1)(g) and Article 14 of the Constitution. The old Act was repealed by the new Act and entered into force from 14-10-1988. After making comparative survey of old and new Acts the Supreme Court observed as follows:

"A comparative reading of the provisions of the Act and the old Act (1939) makes it clear that the procedure for grant of permits under the new Act has been liberalized to such an extent that an intended operator can get a permit for asking irrespective of the number of operations already in the field. The scheme envisaged under Sections 47 and 57 of the old Act has been completely done away with by the Act. The right of existing operators to file objections and the provision to impose limit on the number of permits have been taken away. There is no similar provisions to that of Section 47 and Section 57 under the new Act. The statement of objects and reasons of the Act shows that the purpose of bringing in the Act was to liberalise the grant of permits.

The Apex Court while upholding the constitutional validity of the new Act held that the existing operators cannot complain of violation of Article 19(1)(g) and that the new Act envisaged plenty of operators on every route to provide ample choice to the commuter public and held that there was no justification to entertain a complaint against the liberalised policy for grant of permit under the Act. In this regard the Supreme Court observed as follows:

"The petitioners are existing stage carriage operators on different routes. They hold permits granted by the Regional Transport Authorities concerned. Mithilesh Garg petitioner in civil writ petition No.1345 of 1989 has stated that he holds a stage carriage permit and plies his vehicles on the Meerut Pankshitgarb-Hasifabad Lal Jana and allied routes under the jurisdiction of the Regional Transport Authority, Meerut. According to him prior to the enforcement of Article 23 permit holders were operating on the said route but thereafter u/s 80 of the Act the Regional Transport Authority, Meerut has issued 272 more permits in

respect of the same route. Similar facts have been stated in the other writ petitions. As mentioned above the petitioners are permit holders and are existing operators. They are plying their vehicles on the routes assigned to them under the permits. They are in the full employment of their Fundamental Rights guaranteed to them under Article 19(1)(g) of the Constitution of India. There is no other threat of any kind whatsoever from any authority to the enjoyment of their right to carry on the occupation of transport operators. There is no complaint of infringement of any of their statutory rights. Their only effort is to stop the new operators from coming in the field as competitors. We see no jurisdiction in the petitioners' stand. More operators mean healthy competition and efficient transport system. Over-crowded buses, passengers standing on the aisle clinging to the bus doors and even sitting on the roof tops are some of the common sights in this country. More often one finds a bus which has noisy engine, old upholstery, uncomfortable seats and continuous emission of black smoke from the exhaust pipe. It is therefore necessary that there should be plenty of operators on every route to provide ample choice to the commuter public to board the vehicle of their choice and patronize the operator who is providing the best service. Even otherwise the liberal policy is likely to help in the elimination of corruption and favouritism in the process of granting permits. Restricted licensing under the old Act led to the concentration of business in the hands of few persons thereby giving rise, to a kind of monopoly, adversely affecting the public interest. The apprehension of the petitioners that too many operators on a route are likely to affect adversely the interest of weaker section of the profession is without any basis. The transport business is bound to be ironed out ultimately by the rationale of demand and supply. Cost of vehicle being as it is the business requires huge investment. The intending operators are likely to be conscious of the economics underlying the profession. Only such number of vehicles would finally remain in operation on a particular route as are economically viable. In any case the transport system in a state is meant for the benefit and convenience of the public. The policy to grant permits liberally under the Act is directed towards the said goal. The petitioners who are already in the business want to keep the fresh entrants out of it and as such eliminate the healthy competition which is necessary to bring efficiency in the trade."

6. A reference to Full Bench decision would not be of any assistance to the petitioners as what was decided was with regard to the claim of the existing operators to file representations and their right to be heard. In that regard they referred to the various provisions of the Act and held that existing operator had no legal right to claim the opportunity and that he could be permitted to file the representation. The Full Bench observed that under the old Act there were provisions in Sections 47(1) as well as Section 57(3) and (5) enabling the existing operators to submit their representations and for a hearing to be given to them but under the new Act these provisions have been deliberately dropped by Parliament with a view to give effect to the liberalised policy of grant of permits. u/s 47 of the old Act the procedure for considering the applications for

stage carriage permits by the RTA was contained and u/s 57 the procedure in applying for and granting permit was stipulated. But however under the new Act the said procedure has been totally done away with and new procedures have been carved out. u/s 69 of the new Act every application for permit shall be made to the RTA of the Region concerned in which it is proposed to use vehicle or vehicles. The said section is extracted below:

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

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

Provided further that if it is proposed to use the vehicle or vehicles in two or more regions lying in different States, the applications shall be made to the Regional Transport Authority of the region in which the applicant resides or has his principal place of business.

(2) Notwithstanding anything contained in sub-section (1) the State Government may, by notification in the Official Gazette, direct that in the case of any vehicle or vehicles proposed to be used in two or more regions lying in to different States, the application under that sub-section shall be made to the State transport authority of the region in which the applicant resides or has his principal place of business.

Under Section 70 application for permit in respect of stage carriage or as a reserve stage carriage permit is stipulated. The details which are to be mentioned in the said application are contained in Section 70 of the Act which reads thus:

"70: Application for stage carriage permit:--An application for a permit in respect of a stage carriage {in this chapter referred to as a stage carriage permit) or as a reserve stage carriage shall as far as may be contained the following particulars, namely :--

(a) the route or routes or the area or areas to which the application relates.

(b) the type and seating capacity of each vehicle:

(c) the minimum and maximum number of daily trips proposed to be provided and the time table of the normal trips.

Explanation :-for the purposes of this section, Section 72, Section 80 and Section 102 "trip" means a single journey from one point to another and every return journey shall be deemed to be a separate trip.

(d) the number of the vehicles intended to be kept in reserve to maintain the service and to provide for special occasions.

(e) the arrangements intended to be made for housing maintenance and repair of the vehicles, for the comfort and convenience of passengers and for the storage and safe custody of luggage.

(g) Such other matters as may be prescribed.

(2) An application referred to in subsection (1) shall be accompanied by such documents as may be prescribed."

The mode of consideration of the application by the Road Transport Authority is stipulated u/s 71 and the preference in the matter of grant of stage carriage permit to State Transport Authority co-operative societies, ex-service-men etc., is contained therein which is extracted below:

"Procedure of Regional Transport Authority in considering the application for stage carriage permit:-A Regional Transport Authority shall while considering an application for a stage carriage permit have regard to the objects of this Act.

xxxxxxx

(2) A Regional Transport Authority shall refuse to grant a stage carriage permit if it appears from any time table furnished that the provisions of this Act relating to the speed at which vehicles may be driven are likely to be contravened :

Provided that before such refusal, an opportunity shall be given to the applicant to amend the time table so as to conform to the said provisions.

(3)(a) The State Government shall, if so directed by the Central Government having regard to the number of vehicles, road conditions and other relevant matters, by notifications in the official gazette direct a State Transport Authority and a Regional Transport Authority to limit the number of stage carriages generally or of any specified type, as may be fixed and specified in the notification operating on city routes in towns with a population of not less than five lakhs.

(b) Where the number of stage carriages are fixed under clause (a), the Government of the State shall reserve in the State certain percentage of stage carriage permits for the Scheduled Castes and the Scheduled Tribes in the same ratio as in the case of apportionments made by direct recruitment to public services in the State.

(c) Whether the number of stage carriages are fixed under clause (a), the Regional Transport Authority shall reserve such number of permits for the scheduled castes and the tribes as may be fixed by the State Government under sub-clause (b).

(d) After reserving such number of permits as is referred to in clause (c) the Regional Transport Authority shall in considering an application have regard to

the following matters namely-

- (i) Financial Liability of the applicant.
 - (ii) satisfactory performance as a stage carriage operator including payment of tax if the applicant is or has been as operator of stage carriage service; and
 - (iii) such other matters as may be prescribed by the State Government,
- provided that other conditions being equal, preference shall be given to the applications for permits from-
- (i) State transport undertakings.
 - (ii) co-operative societies registered or deemed to have been registered under any enactment for the time being in force, (xxx)
 - (iii) ex-servicemen, or
 - (iv) any other class or category of persons as the State Government may for reasons to be recorded in writing consider necessary.

Explanation :-for the purpose of this section "company" means any body corporate, and includes a firm or other association of individuals and "director" in relation to a firm, means a partner in the firm."

7. Stage carriage permits are granted u/s 72 subject to the conditions attached to the permit as contained in subsection (2) of Section 72. It is made clear that in this batch, we are only concerned with the grant of stage carriage permits and not other permits contained in the Act. u/s 68 the appropriate prescribed authorities are constituted namely the State Transport Authority and the Regional Transport Authority to exercise the powers specified in sub-section (3) of the Act which is relevant for the purpose of our case. Sub-section (3) of Section 68 of the Act reads thus:

"(3) the State Transport Authority and every Regional Transport Authority shall give effect to any directions issued u/s 67 and the State Transport Authority shall subject to such directions and save as otherwise provided by or under this Act, exercise and discharge throughout the State the following power and functions namely :--

- (a) the coordinate and regulate the activities and policies of the Regional Transport Authorities, in any of the State;
- (b) to perform the duties of a Regional Transport Authority where there is no such authority, and if it thinks fit or if so required by a Regional Transport Authority to perform these duties in respect of any route common to two or more regions;
- (c) To settle all disputes and decide all matters on which differences of opinion arise between Regional Transport Authorities.

- (ca) Government to formulate routes for plying stage carriages; and
- (d) to discharge such other functions as may be prescribed."

In this regard clause (ca) was inserted by amendment Act with effect from 14-11-1994 which states "Government to formulate the routes for plying stage carriage permits". u/s 67 the State Government is empowered to issue directions to State Transport Authority and Regional Transport Authority from time to time keeping in view the matters enumerated in clauses (A) to (d) of sub-section (I) of Section 67. Therefore, it is clear from Section 68 that the State Transport Authority and the Regional Transport Authority are required to discharge their functions.

8. The question is whether the amendment in clause (ca) is violative of Article 19(1)(g) or contrary and offending Article 14 of the Constitution of India. The object of the Act has been sufficiently clarified by the Supreme Court in Mithilesh's case (supra) and it would be only a repetition if we again reiterate the same stand. Suffice it to say that as far as the grant of stage carriage permits are concerned, the process has been liberalised. Under Sections 47 and 57 of the old Act there was no provisions for stipulating the formation of routes and no specific power was conferred on any authority for notifying the route for the purpose of grant of stage carriage permits. The permits were being granted on fulfillment of conditions under Sections 47 and 57. But however in the new Act the amendment was brought to Section 68 wherein clause (ca) was inserted giving power to the Government to formulate the route. It is the contention of the learned Counsel for the petitioners that the formation of route wholly unwarranted and when once the route exists, the applications for stage carriage permits have to be considered. It is however to be noted as far as the existing routes are concerned that the formation of routes is an irrelevant factor. This issue arises only in the case of routes other than the existing routes. Though the learned Counsel for the petitioners relied upon the judgment of the learned single Judge of Allahabad High Court they were not able to cull out any principle laid down by the learned single judge. That would not be of any assistance to the petitioners as the constitutional validity of clause (ca) of subsection (3) of Section 68 was never under challenge. The learned judge only tried to harmonize the provisions and held that there is no bar for considering the applications for grant of stage carriage permits pending the declaration of proposed route by the State Government. On the other hand the learned Additional Advocate-General relied on the judgment of the learned single Judge in Mithilesh Rani's case (supra). Even this case is also not of any assistance. The question which fell for consideration before the learned single Judge was whether with the deletion of Section 47(3) of old Act in the new M.V. Act the power of creation of a route no more lies with the Regional or State Transport Authority. The learned single Judge referring to Section 68 of the new Act observed that the powers mentioned in sub-clause (a), (b) and (d) are only to be performed by State Transport Authority. However, so far the power under sub-clause (ca) is concerned it did

not on the facts appear to be one which is to be exercised by the State Government but so as to give it appropriate meaning keeping in view the subject and the context, wherein it has been placed and also applying the principle of ejusdem generis the only interpretation which possibly can be given to it is that STA shall create route for playing stage carriage throughout the State on the principles which are formulated by the State Government. However, the learned judge was not clear in his view but, however, observed that his conclusion was not clearly conveyed from the expressions which have been used in sub-clauses (A) to (c) interpreted and understood in the context in which the sub-clause has been placed. Under sub-clause (2) there would be no conclusion other than the one drawn by the learned Judge. He has explained clause (ca) as to mean that it empowered the State Government to lay down the principles for the route for plying the stage carriages. Thus the learned judge has only clarified that STA has only power to formulate the route as it is empowered by the provisions of clause (ca) to sub-section (3) of Section 68. The STA has been invested with the power to create a new route which should be done on the principles laid down by the State Government. Therefore the validity of section was not in issue. The learned judge tried to interpret to mean that STA is empowered to create new route but following the principles that may be laid down by the Government from time to time.

9. It is true that insertion of clause (ca) was not appropriate in the sense that it was brought into the section in an uncontextual manner. While Section 68 deals with the powers of the STA and RTA sub-section (3) deals with the directions to be issued by the State Government from time to time. But however it is to be noted that simply because an amendment was brought in an uncontextual or in a misfit situation can it be said that it is arbitrary and offending Article 14 of the Constitution. The grant of stage carriage permit cannot be claimed as of right either by the existing operators or an intending operators. He is required to make an application in accordance with the provisions of the Act and it is for the authorities to consider the same keeping in view the objects of the Act and either grant or refusal to grant permit. Even though the Supreme Court has observed that the scheme of grant of permit has been liberalised and future stated that for mere asking the permits should be granted but the Supreme Court never intended that whenever an application is made it can never be rejected. The learned senior Counsel Mr. M.V. Ramana Reddy submits that even though there is no route if the operators lay the route and make an application it is incumbent on the authorities to grant the stage carriage permits on the said route. In our view this is an extreme proposition which cannot be accepted. If the application cannot be rejected on any ground then the other provisions in the Act namely Sections 69, 70 and 71 would become nugatory. However, in Section 80 it is stipulated that application for permit of any kind may be made at any time and that the Road Transport Authority or the State Transport Authority or the prescribed authority referred to in sub-section (1) of Section 66 shall not ordinarily refuse to grant an application for permit of any kind made at any time

under the Act. But however by the first proviso it is stipulated that the authority can summarily refuse the application if it is the effective of increasing the number of stage carriage permits fixed and specified in the official gazette. While refusing such application the applicant is entitled for an opportunity of being heard. Therefore by any stretch of imagination it cannot be said that the operator viz., existing or intending is entitled for grant of permit as of right. Article 19(1)(g) d'd not confer an absolute right on the citizen to practice trade or business but is subject to reasonable restrictions. If the permits are granted for mere asking then there will be chaos in the administration of road transport system and it would defeat the very purpose and intendment of the new Act. The public safety, convenience of the public, environmental conditions, road condition, road safety, avoidance of overcrowding of buses on the road are some of the points on which the permits could be validly rejected and that could not be said that it is violative of Article 19(1)(g). In fact a reading of the provisions referred to above would clearly indicate that restrictions which are placed under the Act for grant of permits are reasonable and do not offend Article 19(1)(g). If the route is not formulated, no application would lie. Therefore the appropriate Government is vested with the power to formulate the route but that does not mean that route can be formulated by the operators themselves and seek an application. That interpretation cannot be given to the said section. It is well settled rule that the provision has to be interpreted keeping in view the object sought to be achieved. Therefore, the interpretation has to be in consonance with the preamble or object of the Act which should aim at advancing the cause and not to curtail the cause. Merely because clause (ca) is uncontextual it cannot be declared as unconstitutional. But the fact remains that the stage carriage permits are to be granted by the respective authorities on the route formulated by the State Government. Thus, we find that clause (ca) is neither offending Article 19(1)(g) nor Article 14 of the Constitution of India.

10. But however in this regard a word of caution is necessary that simply because the power is vested with the authorities to reject the application for grant of stage carriage permits it cannot be done so in a routine manner. Rejection should be in conformity with the objects sought to be achieved by the Act.

11. Another contention raised by the learned Counsel for the petitioner is that under Rule 258 of the M.V.Rules the RTA is empowered to fix the stages of all bus routes except town services and the RTA is entitled to determine the town service. Under clause (2) of sub rule (1) of Rule 258 it stipulated that no route of town shall extend more eight kilometres beyond the limits of municipality or town routes. Service from which it starts provided that this restriction shall not apply to any town service routes which were in existence on the date of coming of these rules into force or in respect of those routes for which specific permission of the transport Commissioner is obtained. By taking recourse to this clause an argument is advanced to the effect that for extension of town service routes the Transport Commissioner is given permission whereas under clause

(ca) the appropriate authority is the State Government. Therefore, these two provisions do not go together and on the other hand they clash with each other. But this contention holds no water for the reason that the State Government is the appropriate Government to formulate the routes and in case the town service route is formulated beyond eight kilometers, the permission of the Transport Commissioner is necessary. Of course, the rule empowers the Road Transport Authority to determine the town service route and reading of clause (ca) would make one to understand that the Road Transport Authority is empowered to declare the town service route which goes against the provisions of clause (ca) of sub-section (3) of Section 68 of the M.V. Act. The rule making power is only a subordinate legislation and it gives way to the principal provision which only empowers the Government to formulate the route in that regard it has to be considered that Road Transport Authority is empowered to determine the town service route subject to formation of route by the State Government. If we read so harmoniously there would not be any inconsistency between the main section and the Rule 258. j It is also brought to the notice of this Court that after the amendment in 1998 the State Government has not formulated any route nor issued any guidelines prescribing the procedure for formulating the route. But that should not be construed as nullifying the provision itself. It is hoped that the Government would issue necessary guidelines in this regard so as to make an effective use of the provision keeping in view the objects of the Act. Thus we sustain the constitutional validity of clause (ca) of sub-section (3) of Section 68 of the Motor Vehicles Act 1988.

12. Accordingly, we dismiss the writ appeal and writ petitions. No costs.