

(2001) 07 RAJ CK 0057

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1889 of 2000

Ravi Bus Service and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 27-07-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 217, 217A

Citation : (2002) 2 RLW 1279 : (2002) 4 WLC 676 : (2002) 2 WLN 139

Hon'ble Judges : B.S. Chauhan, J

Bench : Single Bench

Advocate : Bharat Vyas, S.P. Arora, R.K. Purohit, R.P. Dave, B.L. Maheshwari and R.K. Rathi, for the Appellant;

Judgement

Chauhan, J.—All these petitions have been filed against the judgment and order dated 29.5.2000 passed by the State Transport Appellate Tribunal (for short, "the Tribunal") disposing of a bunch of appeals and revisions, by which the Tribunal remanded the cases to the Regional Transport Authority, Bikaner (for short, "the R.T.A.") for considering the cases afresh.

2. The case has a chequered history as there have been several rounds of litigation in respect of grant of same permits. There are groups of operators having conflicting interests. One group of permit holders claims that they have been operating on the inter-State route Hanumangarh to Dubwali via Sangaria falling within the territories of the States of Haryana and Rajasthan, since 16.3.1963. Their permits stood renewed from time to time by the R.T.A. and counter signed by the Competent Authority in the State of Haryana. Their permits were renewed even after commencement of the new Motor Vehicles Act, 1988 (for short, "the New Act") and countersigned by the Haryana Authority. There remained uncertainty on the legal issue: whether permits granted under the provisions of the Motor Vehicles Act, 1939 (for short, "the Old Act") can be renewed under the provisions of the New Act as the Hon'ble Supreme Court had given contradictory judgments, while interpreting the provisions of Section 217

of the New Act, in *Gurcharan Singh Baldev Singh v. Yashwant Singh* (1) and *Secy. Quillon Distt. Motor Transport Workers Corporation Society Ltd. v. Regional Transport Authority* (2). Later on, the controversy was resolved by a Larger Bench in *Gajraj Singh and Ors. v. State Transport Appellate Tribunal and Ors.* (3), holding that the permits granted under the Old Act could not be renewed under the New Act.

3. Though the permits of alt these operators/petitioners had been countersigned but taking abundant caution, they also applied for fresh grant under the New Act. The *Rajaslhan State Road, Transport Corporation* (for short, "the Corporation") also applied for grant of permits on the same route. The R.T.A., vide its resolution dated 29.2.1996, granted thirteen permits to the Corporation and eleven permits in favour of the applicants/petitioners stipulating that the said permits were being granted over and above the ceiling fixed by the reciprocal agreement. These eleven permits were duly counter-signed by the Competent Authority of Haryana in April, 1996 for a period of five years and they have been plying their vehicles on the route. In the meanwhile, a new agreement between the States took place and its final publications in the Gazette of Haryana and Rajasthan were made and it came into effect on 22.7.97. The said agreement provided that thirteen permits could be granted by the State of Rajasthan on the said route and Clause 4 thereof stipulated that permits, which had been counter-signed by the State of Haryana, would remain valid. Such petitioners were allowed to ply their vehicle under the said agreement also.

4. In *Zamindara Motor Transport Co-operative Society v. Regional Transport Authority, Bikaner and Ors.* (4), this court held that Transport Authority had no competence to grant permits over and above the ceiling fixed by reciprocal agreement. The earlier judgments of this Court in *Sahib Ram v. State of Rajasthan* (5); *Sunil Kumar Ajmera v. Secretary, State Transport Authority* (6) and *New Vijay Laxmi Co. v. State* (7) where it had been held that the permits could be granted over and over the strength fixed by reciprocal agreement, lost sanctity because of the amendment in the Act with effect from 14.11.94. The said judgment stood confirmed by the Division Bench, vide judgment and order in *State of Rajasthan v. Gyan Singh and Anr.* (8). The law has also been clarified by the Hon"ble Supreme Court in *Ashwani Kumar v. Regional Transport Authority, Bikaner* (9) that the Transport Authority does not have competence to grant or counter sign permits over and above the ceiling fixed by the reciprocal agreement.

5. In view of the above, the R.T.A. rejected a large number of applications pending for consideration for grant of permits holding that there was no vacancy on the route and the question of considering the said applications did not arise. Being aggrieved and dissatisfied, the said applicants filed appeals before the Tribunal. The Tribunal, vide its judgments and order dated 24.7.99, allowed the said appeals holding that the permits granted and counter signed prior to the reciprocal agreement dated 22.7.97 either in favour of Corporation or private

operators were not saved, by the said agreement and, thus, there were thirteen clear vacancies on the route and the R.T.A. was directed to reconsider the applications. Being aggrieved and dissatisfied, the Corporation and two existing operators since 1963, namely, Sohan Lal and Yogendra Singh, filed SBCWP Nos. 2986/99, 3010/99, 3998/99 and 4005/99 before this Court on the ground that the Tribunal delivered the judgment on 24.7.99 making observations that permits granted prior to the agreement dated 22.7.97 were not saved by the said agreement, without giving opportunity of hearing to them and they were adversely affected by the said judgment. This court, vide orders dated 9.9.99 and 8.10.99, stayed the operation of Tribunal's order dated 24.7.99. The said writ petitions were disposed of by this Court vide judgment and order dated 14.2.2000, setting aside the judgment and order of the Tribunal dated 24.7.99 and directing the Tribunal to decide the case afresh after giving an opportunity of hearing to all concerned. Prior to the disposal of the said writ petitions by this court on 14.2.2000 and during the period in which interim orders passed by this Court were in force, the R.T.A. considered the applications in pursuance of the order of the Tribunal dated 24.7.99 and granted thirteen permits vide resolution dated 2.11.1999. Against that, revision Nos. 5-8 of 2000 were filed before the Tribunal. As the cases had been sent back to the Tribunal by this Court, vide judgment and order dated 14.2.2000, after setting-aside its earlier judgment dated 24.7.1999, the Tribunal heard all the cases together and passed the impugned judgment and order dated 29.5.2000, by which persons who had been plying their vehicles since 1963, had been found non-suited on the ground that prior to commencement of the agreement dated 22.7.97, they had been granted permits over and above the ceiling fixed by the reciprocal agreement. Permits of the grantees, vide resolution dated 2.11.99, were found to be illegal on the ground that the said resolution had been passed in spite of the interim orders passed by this Court on 9.9.99 and 8.10.98 and moreover, the very basis of considering the applications disappeared as the judgment and order of the Tribunal dated 24.7.99 stood set aside by this Court vide order dated 14.2.2000. Corporation was also found non-suited for want of counter signatures of its permits by the Haryana Authority. Hence, these petitions.

6. S.B. Civil Writ Petitions No. 1856/2000 and 1896/2000 have been filed by thirteen grantees vide resolution dated 2.11.99 on the ground that grant of permits in their favour could not have been set aside by the Tribunal for the reasons that the same had been made in spite of the interim orders passed by this court on 9.9.99 and 8.10.99 as those interim orders had not been communicated to the R.T.A. Moreover, the said interim orders stood vacated subsequently vide order dated 30.12.99 and ultimately the writ petition petitions were disposed of directing the Tribunal to decide the matter afresh. So far as vacating the said interim orders vide orders dated 30.12.99 is concerned, the same could not materially affect the merit of the case for the reason that the resolution dated 2.11.99 had been passed during the operation of the interim orders. Moreover, judgment in those writ petitions finally supports the judgment of

the Tribunal as the judgment dated 24.7.99 passed by the Tribunal, conferring jurisdiction upon the R.T.A. to reconsider the case, stood set aside by the order of this Court dated 14.2.2000. Therefore, the only question remains: whether in absence of communication of the said interim orders to the R.T.A., the resolution could be held to be valid?

7. Undisputedly, the said orders were passed after hearing Mr.R.P. Dave, learned Standing Counsel for the R.T.A. In *Ganesh Mal Surana v. State of Rajasthan and Ors.* (10), a Division Bench of this Court held as under:-

"When the order has been passed by the High Court in the presence of the counsel for the respondents then it means that the order has been passed in presence of the parties themselves and the parties had the knowledge of the stay order."

8. Similar view had been reiterated in *Mohinuddin and Ors. v. State of Rajasthan and Ors.* (11).

9. Judicial Discipline requires the Single Judge to follow the law laid down by the Coordinate Bench/Larger Bench and there are no special features in the present case which may distinguish the case from the Division Bench judgment of this court in *Ganesh Mal surana* (supra). Therefore, I am of the considered opinion that even if none of the parties placed copies of the said interim orders before the R.T.A., as the Authority was represented by the counsel before this Court, it tantamount to passing the orders in presence of the R.T.A.

10. Mr. Maheshwari has submitted that Mr.R.P. Dave had appeared without any authorisation and filing the Vakalatnama, therefore, his presence before this Court was meaningless and the view expressed hereinabove is not permissible. In support of his contention, he has placed reliance upon the judgments of this Court in *Aman Khan v. Sheo Onkar* (12) and *Smt. Bhani v. Mahaveer Prasad* (13), wherein it has been held that a Lawyer must have a proper authorisation from his client, otherwise the client cannot be held to be bound by the Court's order. There is no dispute on the issue that Mr.R.P. Dave had appeared before this Court as a Standing Counsel. Whether he had filed the Vakalatnama in the said cases or not, cannot be examined at this stage by calling the record of the earlier cases, as insisted by Mr. Maheshwari, for the reasons that whether Mr.Dave appeared after filing Vakalatnama or not, is a question of fact. The Tribunal has dealt with this issue elaborately. There was no such averment before the Tribunal nor there is any factual foundation in this regard in the writ petition nor such a ground has been taken in the petition. Mr. Maheshwari cannot be permitted to raise such a plea without laying down any factual foundation or making any averment in this respect and taking such a ground.

11. In *Ganesh Trading Co. v. Moji Ram* (14), the Hon"ble Supreme Court explained the object of pleadings as under:-

".....Pleadings in civil cases are meant to give the each side intimation of the

case of other so that it may be met, to enable the Courts to determine what is really at issue between the parties and to prevent deviation from the course which litigant, on particular cause of action, must take."

12. The pleadings must be clear, specified and unambiguous. General or vague allegations are insufficient to constitute an averment and do not meet the legal requirement as to be read as part of pleadings. (Vide Varanasaya Sanskrit Vishwavidhyalaya and Anr. v. Dr. Rajkishore Tripathi (15). A party cannot be permitted to travel beyond pleadings nor can it be permitted to argue that oral pleadings may also contemplate the pleadings.

13. A party has to plead the case and produce/adduce sufficient evidence to substantiate his submissions made in the petition and in case the pleadings are not complete, the Court is under no obligation to entertain the pleas. In Bharat Singh v. State of Haryana (16),"the Hon"ble Supreme Court has observed as under:-

"In our opinion, when a point, which is ostensibly a point of law is required to raising the joint, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or the counter affidavit, as the case may be, the Court will not entertain the point.. There is a distinction between a hearing under the CPC and a writ petition or a counter-affidavit. While in a pleadings, i.e. a plaint or written statement, the facts and not the evidence are required to be pleaded. In a writ petition or in the counter affidavit, not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it."

14. Similar view has been reiterated in Larsen & Tubro v. State of Gujarat (17); National Building Construction Corporation v. s. Raghunathan and Ors. (18); Ram Narain Arora v. Asha Rani and Ors. (19) & State of U.P. and Ors. v. Chandra Prakash Pandey (20).

15. In Atul Castings Ltd. v. Bawa Gurvachan Singh (21), the Hon"ble Apex court observed as under:-

"The findings in the absence of necessary pleadings and supporting evidence cannot be sustained in law."

16. Even otherwise, whether in earlier round of litigation, Mr. Daye appeared with authorisation or not, is a question of fact and requires investigation, thus, cannot be allowed to be agitated orally first time in the writ jurisdiction. (Vide A.M. Allison and Anr. v. B.L. Sen and Ors. (22); A. St. Arunachalam Pillai v. Southern Roadways Ltd. and Anr. (23); The Cantonment Board, Ambala v. Pyare Lal (24); State of U.P. and Ors. v. Dr. Anupam Gupta (25); Bhanwar Lal v. T.K.A. Abdul Karim (26); Rattan Lat Sharma v. Managing Committee (27); Rajeshwari Amma and Anr. v. Joseph and Anr. (28); Commissioner of Income Tax v. U.P. Forest

Corporation (29); P.R. Deshpande v. Mamti Balaram Haibatti (30); State of Punjab v. Dr. R.N. Bhatnagar (31); Oil & Natural Gas Commission v. M.C. Clelland Engineers S.A. (32); Rajasthan Agriculture University v. Ram Krishna Vyas (33); Warher Hindustan Ltd. v. Collector of Central Excise (34); Atlas Export Industries v. Kotak & Co. (35); Ram Kumar Agrawal v. Thawar Das (36); Ramesh Chand Sharma v. Udham Singh Kamal and Ors. (37); Badrinath v. Government of Tamil Nadu and Ors. (38) and M.L. Prabhakar v. Rajiv Singal (39).

17. Had the issue been raised before the Tribunal, the R.T.A. could have informed the Tribunal about the factual position. Moreso, even if Mr. Dave appeared without authorisation of his client, it is only the R.T.A. who could raise such an issue and none else.

18. In the written submissions filed on 26.7.2001, Mr. Maheshwari has raised the issue of competence of grant of permits on the route as it stood notified by the State of Haryana in 1972. No such factual position has ever been stated before any Authority below, nor there is even a whisper in this respect in writ petitions. The law does not permit the Court to consider such a plea at the back of the other side. A Nine Judges Bench of the Hon'ble Supreme Court, in New Delhi Municipal Council v. State of Punjab and Ors. (40), has categorically held that a point not taken in the pleadings and not raised at the time of argument, cannot be looked into by the Court for the reason that the other side has no opportunity to either rebut the facts or address the Court on law. The Court observed as under:-

"At the out-set, we must express our great reluctance to deal with this proposition for it is not based on any contention advanced by any of the counsel who appeared before us, either in their written pleadings or in their oral submissions. This is not because we feel constrained to restrict ourselves to the parameters by the submission of the counsel but because we feel that the opposite side has not a fair opportunity to answer the line of reasoning adopted in that behalf.....

We have only the rule of caution in mind which warrant that ordinarily the Courts should, particularly in constitutional matters, refrain from expressing any opinion on the point not raised or not fully and effectively argued by the counsel on other side."

19. In view of the above, I am of the candid view that this issue does not require any consideration. Moreso, if grant of permits is not permissible on the said route in view of the said Scheme, I fail to understand as how the applications of Mr. Maheshwari's clients were entertained and how can he seek relief for them from this Court. Moreso, permits of the other persons had never been under challenge. Thus, Mr. Maheshwari does not represent a party having any locus standi in this regard.

20. Thus, in view of the above, no probe on the issue as to whether on those dates Mr. Dave, being Standing Counsel, could appear without filing Vakalatnama

and if it was necessary, whether Vakalatnama had been filed by him is required as there are no pleadings in this respect. Mr. Maheshwari has raised the issue only by making oral submissions, which cannot be contemplated as pleadings.

21. Before parting with this issue, it may also be pertinent to note that on the said dates Mr. Maheshwari appeared for those petitioners and obtained the interim orders in first round of this very litigation. Merely because Mr. Maheshwari is, now, representing the interest of adversaries and opposing the interest of those very persons for whom he had appeared in those writ petitions as their counsel and obtained the interim orders, he cannot be permitted to raise this plea for the reason that he ought to have raised objection against Mr. Dave's appearance on 9.9.99 and 8-10.99 when the interim orders were passed in favour of Mr. Maheshwari's clients. Whether it is permissible for Mr. Maheshwari to hold the brief against those whom he had represented in the earlier round of litigation, is not an issue to be decided by this court as the Bar Council alone has competence to adjudicate upon such issues. Suffice it to say, if Mr. Maheshwari wanted to argue this issue so vehemently, he ought to have opposed appearance of Mr. Dave when interim orders were passed in favour of Mr. Maheshwari's clients in earlier round of this very litigation.

22. Mr. Maheshwari urged that the Tribunal considered and made the provisions of Order 3 Rule 4 and 5 of the CPC (for short, "the Code"), dealing with the issue of appearance of Lawyers applicable, though Section 141 of the Code itself makes the code inapplicable in writ jurisdiction. Undoubtedly, the provisions of the Code as such are not applicable in writ jurisdiction but the principles enshrined in the Code, Limitation Act and other Statutes, being based on the principle of public policy, have been made applicable in writ jurisdiction also. (Vide *M.P. Raghavan Nari v. State Insurance Officer and Ors.* (41); *Union of India and Ors. v. Athos L.J.P. Fernandes and Ors.* (42); *Teja Singh v. Union Territory of Chandigarh and Ors.* (43); *Smt. Sudama Devi v. Commissioner and Ors.* (44); *Khacher Singh v. State of U.P. and Ors.* (45); *Sarguja Transport Service v. S.T.A.T., Gwalior and Ors.* (46) and *Ashok Kumar and Ors. v. Delhi Development Authority* (47))

23. Principle enshrined in the provisions of Section 11 and Order 2 Rule 2 of the Code has always been made applicable in writ jurisdiction. By applying the principles of *res judicata* and constructive *res judicata*, practice of filing of successive writ petitions has always been deprecated. (Vide *D. Cawasji & Co. v. State of Mysore* (48); *State of U.P. v. LabhChand* (49); *Commissioner of Income tax v. T.P. Kumaran* (50); *Union of India and Ors. v. Punnilal* (51) and *Avinash Nagra v. Navodaya Vidhyalaya Samiti* (52). *Legal maxim Interest Reipublicae Ut Sit Finis Litium*, means that it is in the interest of the State that there should be end of law suit. As the principle is founded on sound public policy, the same may be made applicable in any judicial proceeding. Thus, in view of the above, the submission made by Mr. Maheshwari on this count is preposterous and not worth consideration.

24. Thus, in view of the above, it can safely be held that the resolution of the R.T.A. dated 2.11.99 was passed when the interim orders dated 9.9.99 and 8.10.99 passed by this Court were in force and stood communicated to the Authority.

25. The Hon^{ble} Supreme Court, in *Moolraj v. Murty Raghjunathji Maharaj* (53), held that any action taken by an authority/Court in contravention of the interim order passed by a Court of Law, is not only illegal but nullity. The Apex Court observed as under:-

"But a mere order of stay of execution does not take away the jurisdiction of the Court. All that it does is to prohibit the Court from proceeding with the execution further..... As soon as the court has the knowledge of the order, it is bound to obey it and if it does not, it acts illegally and all proceedings taken after the knowledge of the order would be a nullity."

26. Same view has been reiterated by a Division Bench of this Court in *Ganesh Mal Surana (supra)* and *Anil Kumar and Ors. v. State of Rajasthan* (54).

27. Therefore, I am of the considered opinion that permits granted, vide resolution dated 2.11.99, cannot be said to be valid and they remain inconsequential. In view of the above, Writ Petitions Nos. 1856/2000 and 1896/2000 are liable to be dismissed.

28. As a natural consequence, writ petitions challenging the order of the Tribunal in Revisions No.5-8/2000, i.e. Writ Petitions Nos. 1939/2000, 1942/2000, 1944/2000 and 1945/2000, do not require any formal order.

Writ Petitions Nos. 1889-1896 of 2000 and 4551-4552/2000:-

29. The Corporation had preferred SBCWP Nos. 1927/2000 and 1928/2000 against the same judgment and order of the Tribunal dated 29.5.2000 on the ground that the Tribunal could not have found the corporation non-suited on the ground that it's permits had never been counter signed by the State of Haryana. Those writ petitions stood dismissed by the judgment and order of this court dated 9.7.2000 holding that the Corporation never tried to get its permits counter-signed and by virtue of the amendment dated 14.11.94 in the Act, it had no right to ply its vehicles even within the State of Rajasthan. This court held that permits granted in favour of the Corporation, vide resolution dated 29.2.96, remained ineffective and it could not be held to be a grant of permits in favour of the Corporation at all.

30. Mr. Vyas has urged that petitioners herein had been plying their vehicles since 1963 and were granted fresh permits vide resolution 29.2.96. The said permits stood counter-signed by the State of Haryana. Fresh grant was considered necessary because of the controversy on the interpretation of the provisions of Section 217 of the New Act and it stood resolved by the judgment of the Hon^{ble} Supreme Court in *Gajraj Singh (supra)*, the Legislature realised the difficulties and amended the Act with effect from 14.8.2000 by inserting the

provision of Section 217-A in the Act making the permits granted under the Old act renewable under the New Act. The New Act came into force w.e.f. 1.7.1989, thus, under the Old Act, permits could have been granted only upto 30.6.1989. Such permits would lapse automatically upto 29.6.1994 as maximum life of a permit is only five years. Legislature is supposed to be well acquainted with the existing laws. It is not supposed to enact a law which cannot be executed/enforced. The provisions of Section 217-A is certainly not meant to revive a permit lapsed six years ago. Therefore, to give effect to the intent of the Legislature, its provision requires purposive interpretation, i.e. as petitioners' permits granted under the Old Act stood renewed under the New Act, there was no occasion for them to get fresh permits in 1996. In that situation, Corporation could not have been granted any permit. If such interpretation is not made, the provisions of Section 217-A would be rendered nugatory and such an interpretation is not permissible.

31. There may be some substance in the submissions made by Mr. Vyas as not even a word in a Statute has to be construed as surplusage. Nor can it be rendered ineffective or purposeless. Courts are required to carry out the legislative intent fully and completely. While construing a provision, full effect is to be given to the language used therein, giving reference to the context and other provisions of the Statute, By construction, provision should not be reduced as a "dead letter" or "useless lumber. An interpretation which renders a provision an exercise in futility, should be avoided, otherwise, it would mean that enacting such a provision in subordinate legislation was" an exercise in futility" and the product came as a "purposeless piece" of legislation and provision had been enacted without any purpose and entire exercise to enact such a provision was "most unwarranted besides being uncharitable". (Vide *M.V. Elisabeth and Ors. v. Harwan Investment and Trading Pvt. Ltd.* (55); *Institute of Chartered Accountants of India v. Price Water-house and Anr.* (56); *Martin Burn Ltd. v. Corporation of Calcutta* (57); *Patel Chunibhai Dejiabhai v. Narayanrao K. Jambekar and Anr.* (58); *Sultana Begum v. Prem Chand Jain* (59); *State of Bihar v. Bihar Distillery Ltd. and Ors.* (60); *South Central Railway Employees Co-operative Credit Society Employees' Union, Secunderabad v. Registrar of Co-operative Societies and Ors.* (61); *Subash Chander Sharma v. State of Punjab and Ors.* (62) and *K. Duraisamy and Ors. v. State of Tamil Nadu and Ors.* (63).

32. In *Gautam Pal v. Debi Rani Paul and Anr.* (64), the Hon"ble Apex Court held that a provision should not be interpreted giving a meaning which the Legislature did not intend. The legislative intent should not be obscured. In *Gyalri Devi Pansari v. State of Orissa* (66), the Court observed that statutory provision is to be construed promoting its object keeping in view the purpose, substance and object thereof rather than to stifle the same. In *Tata Engineering & Locomotive Co. Ltd. v. State of Bihar and Ors.* (66), the Hon"ble Supreme court observed as under:--

"Statutes, it is often said, should be construed not as theorems of Euclid but with

some imagination of the purposes which lie behind them and to be too literal in the meaning of words is to see the skin and miss the soul. The method suggested for adoption, in cases of doubt as to the meaning of the words used is to explore the intention of the legislature through the words, the context, the subject matter, the effects and consequences or the spirit and reason of the law."

33. Be that as it may, permits involved in these petitions may be held to be within the ceiling fixed by the reciprocal agreement for the reason that permits granted in favour of the corporation by the same resolution had been held to be as "no grant" at all vide judgment and order of this court dated 9.7.2001.

34. There has been some confusion regarding the Hindi translation of the agreement dated 22.7.97 as there had been some typographical error in the Hindi version thereof, which was subsequently clarified by the State of Haryana, vide its letter dated 15.11.2000 (Annex.A/6) that permits granted earlier and counter-signed by that State shall be saved by the agreement dated 22.7.97. The English version of the next reads as under:-

"All the previous stage carriage permits which are counter-signed by either State before coming in force of this agreement, shall remain in force."

35. Thus, as the agreement itself provides for saving the permits which had been counter-signed under the earlier agreement, the said eleven permits are saved even if the same had been granted over and above the ceiling fixed by the reciprocal agreement as by that time law had been understood to be that permits could be granted and counter-signed over and above the limited fixed by the reciprocal agreement. Both the States, i.e. parties to the agreement. Both the States, i.e. parties to the agreement were fully aware of the factum that those eleven permits had been granted over and above the strength fixed by the earlier agreement and even then they consciously did not incorporate any term/condition in the agreement that only those permits, which had been granted within the scope of the agreement and countersigned, would be saved, being valid, under the new agreement. Even otherwise, if it is to be held that only those permits; which had been granted within the ceiling limit fixed by the agreement and counter-signed remained valid, the said eleven permits can safely be held to be within the ceiling limit as the permits granted in favour of the Corporation have been held to be "no grant" at all under the Act.

36. Clause 4 of the Reciprocal Agreement dated 22.7.1997, saves the permits duly counter-signed prior to the commencement of the said agreement as held by this Court in *Om Prakash and Ors. v. R.T.A. and Ors.* (67). Though in the said case the permit involved was not out-side the scope of reciprocal agreement.

37. The grant made in favour of the said eleven persons has never been under challenge on any count before any forum. It was only because of the order of this Court dated 14.2.2000 that the Tribunal was directed to find out as who are the thirteen persons having right to ply their vehicles. Mere stipulation on their permits that they were over and above the scope of agreement would not make

them disentitled for continuing in operation as the said stipulation is to be read in consonance with law. (Vide Union Territory of Chandigarh Administration and Ors. v. Managing Society, Goswami G.D.S.D.C. (68)).

38. Moreso, as the legal position remained uncertain at the relevant time and permits could be granted and counter-signed over and above the ceiling fixed by the reciprocal agreements, permit-holders plying since 16.3.1963 should not be thrown out on technical grounds even after commencement of Section 217-A of the Act in operation with effect from 14.8.2000. Thus, in view of the above, these petitions deserve to be allowed.

39. Writ petition No. 615 of 2001 has been filed challenging the grant of temporary permit pending renewal. The said issue is not required to be considered at all the application for renewal itself should have been decided by the Authority concerned by this time. The petition is dismissed as having become infructuous.

40. In Writ Petition No.2636of 2000 and 1489/2001, the issue regarding existence of vacancies has been raised. As all the matters relating to the route in question are being disposed of, petitioners may have a right to get their application for grant of permit, considered in accordance with law against the remaining two vacancies.

41. Petitions stand disposed of accordingly. Writ petitions Nos. 1856 and 1896 of 2000 stand dismissed. In view the dismissal of the aforesaid petitions, formal orders are not required to be passed in Writ Petitions Nos. 1938, 1942, 1944 and 1949 of 2000. Writ Petitions Nos. 1889-1896 and 4551-4552 of 2000 are allowed. Writ Petition No.615 is dismissed having become infructuous. Writ Petition Nos. 2636/2000 and 1489 of 2001 are disposed of with observation made above. The order of the Tribunal stands modified accordingly. There shall be no order as to costs.