

**(1963) 01 MAD CK 0015**

**In the Madras High Court**

**Case No : Writ Petition No. 1067 of 1962**

S. Pachayyappa Mudaliar

APPELLANT

Vs

S.S. Motor Service (P) Ltd. and Others

RESPONDENT

**Date of Decision : 23-01-1963**

**Acts Referred:**

Motor Vehicles Act, 1939 — Section 62

**Citation : AIR 1964 Mad 130 : (1963) 76 LW 655**

**Hon'ble Judges : Veeraswami, J**

**Bench : Single Bench**

**Advocate :** T. Chengalvarayan, for the Appellant; S. Mohan, for Addl. Govt. Pleader, S. Mohankumaramangalam, M.N. Rangachari, V.C. Palaniswami, C.S. Prakasa Rao, S.V. Patrachari, V. Srinivasan and N.G. Krishna Iyengar, for the Respondent

**Final Decision : Dismissed**

## Judgement

Veeraswami, J.—This petition is to prohibit the fifth respondent, the Regional Transport Authority, South Arcot, from issuing temporary

permits to each of the rest of the respondents on the route Tindivanam to Uppuvelur, via Brahmadesam. It is not in dispute that four temporary

permits were first issued in January 1962 on the route. Temporary permits were again issued in May and September 1962. It is also not denied

that similar permits have been issued in January 1963 too, though the temporary permit issued to the fourth respondent is for a different route, part

of which lies on the route Tindivanam to Uppuvelur. Prohibition is asked for on the ground that such successive grants of permits is an abuse of

power u/s 62 of the Motor Vehicles Act.

2. The contention on behalf of the petitioner certainly appears to have force. It is true that where a power is granted, it is not exhausted by

repeated exercise of it. But the power u/s 62 has its limitations. That section clearly contemplates the occasions on which only the power to grant

temporary permits can be availed of. It may be that the circumstances of any or all of the purposes may be such that repeated exercise of the

power u/s 62 may be called for. But if the circumstances show that the need is not a, temporary one, but a permanent need, that will be the point at

which the line should be drawn when the power u/s 62 will no longer be available.

3. The fact that temporary permit has to be issued in succession on more than three occasions over a period of one year demonstrates that the

need there for can in no sense be regarded as a temporary one. Nevertheless I am not inclined to think that the fifth respondent has abused the

power u/s 62 in granting temporary permits for the forth time, because it does appear from the record sent upto this Court that there was

correspondence between the Transport Commissioner on the one hand and the Highways department on the other as to the restoration of the road

on the route to proper condition. It also appears from the record that calling for applications for permanent permits is in contemplation. I do not

refer to these circumstances to suggest that they will in themselves be a justifying factor to invoke the power u/s 62. But they are relevant to show

that exercise of the power in the instant case is not an abuse, so to speak.

4. I would have been inclined to issue a rule but for the circumstance that it is evident from the record that there is a permanent need for sufficient

number of buses on the route and that by issuing the rule the travelling public in the sector should not be put to inconvenience. Further it is not

disputed that the temporary permits had already been issued and the buses are running. In view of this, though this Court does not think it fit to

issue a rule, I should at the same time make it clear that the circumstances will not any more warrant the authority, the fifth respondent, granting

temporary permits on the route, and that the fifth respondent should take immediate steps to call for application for grant of as many permanent

permits as he considers proper and necessary. As soon as the permanent permits are issued, the temporary permits will automatically cease to

have force. Subject to the said observations, this petition is dismissed. No costs.