

(2020) 06 OHC CK 0005

In the Orissa High Court

Case No : Writ petition (C) No. 14060 Of 2020

Santosh Kumar Sahoo

APPELLANT

Vs

Secretary, State Transport Authority, Odisha, Cuttack And
Another

RESPONDENT

Date of Decision : 11-06-2020

Acts Referred:

Motor Vehicles Act, 1988 — Section 2(47), 2(35), 2(40), 28, 65, 67, 68, 68(3), 72, 74, 76, 79(9), 81(2), 81(3), 83, 86(1), 86(5), 87(1), 87(2), 88(4), 88, 88(8), 88(12), 96, 103(1), 103(2), 104, 111, 138, 200
Odisha Motor Vehicles Rules, 1993 — Rule 2(1), 41, 41(b)(ii), 42, 48, 51(1), 52
Constitution Of India, 1950 — Article 226

Citation : (2020) 06 OHC CK 0005

Hon'ble Judges : B.R.Sarangi, J

Bench : Single Bench

Advocate : M.B. Rao, B.K. Sharma

Final Decision : Dismissed

Judgement

Dr. B.R.Sarangi, J

1. The petitioner, who is the owner of a bus bearing registration number OR-05 P 5148, has filed this writ petition challenging a part of the direction

contained in the judgment dated 06.03.2020 passed by the State Transport Appellate Tribunal, Odisha, Cuttack in M.V. Appeal No. 03 of 2020 in

Annexure-1, whereby the appellate authority, while allowing the appeal, directed the State Transport Authority to reconsider the application of the

petitioner for renewal of permanent permit, and also consequential rejection of request made for clarification of the aforesaid judgment vide order

dated 30.05.2020 in Annexure-3.

2. The factual matrix of the case, in hand, is that the petitioner is the owner of a

bus bearing registration no. OR-05 P 5148 and possessing a stage carriage permanent permit bearing no.SC/PP/05/94/13 for the route from Kamaladiha to Cuttack via Narasinghpur, Saragaon and back. The said permanent permit was valid till 11.11.2018. As the petitioner was under treatment from 25.10.2018 to 10.12.2019, he could not apply for renewal of permanent permit well within the time stipulated, as prescribed under the Act and Rules. But subsequently, he applied for renewal on 11.12.2019, which was rejected by the State Transport Authority, Odisha on 20.01.2020.

2.1 Challenging the order dated 20.01.2020 rejecting renewal of permanent permit, the petitioner preferred M.V. Appeal No.03 of 2020 before the State Transport Appellate Tribunal (STAT), Odisha, Cuttack and, after due adjudication, the tribunal allowed the appeal vide its judgment dated 06.03.2020 in Annexure-1 with the following order:-

â??ORDER

The appeal is allowed on contest against the Respondent without cost.

The matter is remitted back to the S.T.A., Odisha, Cuttack for fresh consideration of the application of the appellant for renewal of his P.P.

within one month from the date of receipt of the Judgment.

A free copy of the judgment be supplied to the learned A.S.T. (Tr.).

Sd/-

State Transport Appellate

Tribunal, Orissa, Cuttack,

06/03/2020â??

2.2 Even though the appeal preferred by the petitioner was allowed and the matter was remitted back to STA, Odisha, Cuttack for fresh consideration of the application of the petitioner for renewal of permanent permit, but the petitioner was aggrieved by the ordering portion of the said judgment to the extent directing â??S.T.A., Odisha,â? instead of â??Secretary, S.T.A., Odisha. Therefore, he filed an application on 18.03.2020 for correction in

Annexure-2, in paragraph-3 whereof it was specifically pleaded as under:-

â??That while doing so, in the ordering portion, instead of Secretary, STA, Odisha, STA, STA has been mentioned inadvertently due to

typographical omission inasmuch as the impugned order was passed by the

Secretary, STA, Odisha. Moreover, no relief has been claimed against STA in the appeal itself.â??

But the STAT considered the said application and rejected the claim of the petitioner with the following order:-

â??Hence, there is no inadvertent omission of the word â??Secretaryâ?, in between the words â??back to the â?? and â??S.T.A.,

Odishaâ? in the ordering portion of the judgment. No typographical error is made by omitting the word â??Secretaryâ?, in between the

words â??back to theâ?? and â??S.T.A., Odishaâ?? in the ordering portion of the Judgment.

Thus, the petition filed by the appellant- petition to insert the word â??Secretaryâ?, in between the words â??back to theâ? and â??S.T.A.,

Odishaâ?? in the ordering portion of the Judgment is rejected being devoid of merit.â??

Hence, this application.

3. Mr. M.B. Rao, learned counsel for the petitioner reiterated the contentions raised before the State Appellate Tribunal and contended that even

though the appellate authority has allowed the appeal, but remitted the matter back to the STA, Odisha, Cuttack, instead of Secretary, STA, Cuttack,

for fresh consideration. It is contended that the STAT, while remitting the matter back to STA, Odisha, lost sight of the proceedings of 193rd meeting

of the STA, Odisha held on 12.11.1992 at 10.30 AM in the chamber of Transport Commissioner-cum-Chairman STA, Odisha wherein under Clause-

B(vi) powers have been delegated to the Secretary to renew or refuse to renew Stage Carriage permits where there is no arrear tax and penalty

(including arrear in dispute) in respect of the vehicle covered by the permit and to attach conditions to the permits thus renewed. Therefore, the

typographical error crept in the order portion of the judgment in not inserting the word â??Secretaryâ? in between the words â??back to theâ? and

â??S.T.A., Odisha, Cuttackâ?, in view of delegation of power made by the competent authority, the judgment should be corrected to that extent only

indicating that the matter is remitted â??back to the Secretary, STA, Odishaâ? instead of â??STA, Odisha, Cuttackâ?. This being the error apparent

on the face of the record, this Court, in exercise of the power conferred under Article 226 of the Constitution of India, may rectify the same.

4. Mr. B.K. Sharma, learned Standing Counsel for the Transport Department argued with vehemence indicating that the STA constituted under the Statute and it has been vested with power to grant renewal of permit in the event the application is made in writing. Thereby, the STA is the competent authority to consider renewal of permanent permit applied by the petitioner, instead of the Secretary, STA, and contended that no error has been committed by the appellate tribunal in passing the order impugned and even otherwise there is also no error in the ordering portion of the order itself so as to warrant interference of this Court, hence prays for dismissal of the writ petition.

5. This Court heard Mr. M.B. Rao, learned counsel for the petitioner and Mr. B.K. Sharma, learned Standing Counsel for Transport Department.

Since it is a writ of certiorari and all documents are available on record itself, without calling for counter affidavit, the matter has been heard and disposed of at the stage of admission with the consent of learned counsel appearing for the parties.

6. There is no factual dispute in the present case and, as such, the petitioner has pleaded in paragraph-4 of the writ petition to the following effect:-

It is extremely relevant to mention here that the petitioner is not at all aggrieved by the Judgment dated 06.03.2020 passed by the opposite party no.2 as such but is dissatisfied with the ordering portion of the said Judgment.

In view of such position, essentially the petitioner is not aggrieved by the impugned judgment dated 06.03.2020 passed by the STA, but is apparently dissatisfied with the ordering portion thereof to the extent that direction has been given to the STA, Odisha, Cuttack, instead of Secretary, STA, Odisha, Cuttack for fresh consideration of the application of the petitioner for renewal of his permanent permit.

7. For just and proper adjudication of the case, in hand, the relevant provisions of the Motor Vehicles Act, 1988 are extracted hereunder:-

Section 68. Transport Authorities (1) The State Government shall, by notification in the Official Gazette, constitute for the State a

State Transport Authority to exercise and discharge the powers and functions specified in sub-section (3), and shall in like manner

constitute Regional Transport Authorities to exercise and discharge throughout such areas (in this Chapter referred to as regions) as may

be specified in the notification, in respect of each Regional Transport Authority; the powers and functions conferred by or under this

Chapter on such Authorities:

Provided that in the Union territories, the Administrator may abstain from constituting any Regional Transport Authority.

(2) A State Transport Authority or a Regional Transport Authority shall consist of a Chairman who has had judicial experience or

experience as an appellate or a revisional authority or as an adjudicating authority competent to pass any order or take any decision under

any law and in the case of a State Transport Authority, such other persons (whether officials or not), not being more than four and, in the

case of a Regional Transport Authority, such other persons (whether officials or not), not being more than two, as the State Government

may think fit to appoint; but no person who has any financial interest whether as proprietor, employee or otherwise in any transport

undertaking shall be appointed, or continue to be, a member of a State or Regional Transport Authority, and, if any person being a member

of any such Authority acquires a financial interest in any transport undertaking, he shall within four weeks of so doing, give notice in

writing to the State Government of the acquisition of such interest and shall vacate office:

Provided that nothing in this sub-section shall prevent any of the members of the State Transport Authority or a Regional Transport

Authority, as the case may be, to preside over a meeting of such Authority during the absence of the Chairman, notwithstanding that such

member does not possess judicial experience or experience as an appellate or a revisional authority or as an adjudicating authority

competent to pass any order or take any decision under any law:

Provided further that the State Government may,â?

(i) where it considers necessary or expedient so to do, constitute the State Transport Authority or a Regional Transport Authority for any

region so as to consist of only one member who shall be an official with judicial experience or experience as an appellate or a revisional

authority or as an adjudicating authority competent to pass any order or take any decision under any law;

(ii) by rules made in this behalf, provide for the transaction of business of such authorities in the absence of the Chairman or any other

member and specify the circumstances under which, and the manner in which, such business could be so transacted:

Provided also that nothing in this sub-section shall be construed as debarring an official (other than an official connected directly with the

management or operation of a transport undertaking) from being appointed or continuing as a member of any such authority merely by

reason of the fact that the Government employing the official has, or acquires, any financial interest in a transport undertaking.

(3) The State Transport Authority and every Regional Transport Authority shall give effect to any directions issued under section 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 powers and functions, namely:â?

(a) to co-ordinate and regulate the activities and policies of the Regional Transport Authorities, if 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 those 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; and

[(ca) Government to formulate routes for plying stage carriages;]

(d) to discharge such other functions as may be prescribed.

(4) For the purpose of exercising and discharging the powers and functions specified in sub-section (3), a State Transport Authority may,

subject to such conditions as may be prescribed, issue directions to any Regional Transport Authority, and the Regional Transport Authority

shall, in the discharge of its functions under this Act, give effect to and be guided by such directions.

(5) The State Transport Authority and any Regional Transport Authority, if authorised in this behalf by rules made under section 96, may

delegate such of its powers and functions to such authority or person subject to such restrictions, limitations and conditions as may be

prescribed by the said rules.â??

The aforesaid provisions, on a careful reading, would indicate that the State Transport Authority has been constituted to exercise and discharge the powers and functions throughout such areas assigned to it. The manner of constitution of such State Transport Authority has also been provided in the aforementioned provisions.

8. In exercise of power conferred by Sections 28, 65, 96, 111 and 138 of the Motor Vehicles Act, 1988, the State Government has framed a Rule, called â??the Odisha Motor Vehicles Rules, 1993â?. Sub-rule (i) of Rule 2 thereof defines â??Secretary, State Transport Authorityâ?, which reads as follows;

â??Secretary, State Transport Authorityâ? means an Officers appointed as such by the State Government to exercise the powers, discharge

the duties and perform the functions of the Secretary of the State Transport Authority provided under these rules and includes Special

Secretary/Additional Secretary/Assistant Secretary/Additional Assistant Secretary. Additional Commissioner, Transport, shall function as

Special Secretary, State Transport Authority and Additional/ Assistant Regional Transport Officers posted to Check gates shall function as

Additional/Assistant Secretary, State Transport Authority;â??

A bare reading of the above quoted provisions would indicate that Secretary, State Transport Authority means an officer appointed by the State

Government to exercise the powers, discharge the duty and perform the functions of the Secretary of the State Transport Authority provided under

these rules and includes Special Secretary/Additional Secretary/ Assistant Secretary/Additional Assistant Secretary.

9. Chapter-IV of the Rules, 1993 deals with control of transport vehicles. â??Transport vehicleâ? has been defined under sub-section (47) of Section

2 of the Act, 1988 to mean:-

â??(47). â??transport vehicleâ? means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle.â??

The above mentioned definition includes â??public service vehicleâ?, which has been defined under sub-section (35) of Section 2 of the Act, 1988 to

mean:-

â??(35). â??public service vehicleâ? means any motor vehicle used or adapted to be used for the carriage of passengers for hire or

reward, and includes a maxicab, a motorcab, contract carriage, and stage carriage.â??

Similarly, the definition of â??public service vehicleâ? includes â??stage carriagesâ?, which has been defined under sub-section (40) of Section-2 of

the Act, 1988, to mean:-

â??(40). â??stage carriagesâ? means a motor vehicle constructed or adapted to carry more than six passengers excluding the driver for

hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey.â??

The analysis of entire definitions, as made above, would clearly indicate that â??stage carriagesâ? comes under â??transport vehiclesâ? and

Chapter-IV of the Rules, 1993 deals with the control of transport vehicles.

10. Rule 41, which deals with delegation of powers by the State Transport Authority, reads as follows:

â??1. Delegation of powers by the State Transport Authority- (1) The State Transport Authority may, by general or special resolution

recorded in its Proceedings, delegate:

(a) to its Chairman or Secretary.

(i). its powers under Section 72, Section 74, Section 76, Section 79, sub-section (9) of section 88 and sub- section (12) of section 88,

respectively to grant with or without modification or the application or to refuse to grant a stage carriage permit, a contract carriage

permit; a private service vehicle permit, a goods carriage permit, a tourist vehicle permit and a national permit; and to attach conditions to

such permit and to vary such conditions;

(ii) its powers to grant a permit to a private motor vehicle adapted to carry more than nine persons excluding the driver;

(iii) its powers under Sub-sec. (1) of Sec.88 to countersign or to refuse to countersign a permit, to attach conditions to the permit thus

countersigned and to revoke a counter signature of permit.

(iv) to exercise the powers of the Regional Transport Authority in the

circumstances specified in sub-section (3) of section 68, which may be delegated under rule 42 to its Chairman or Secretary or any other officer to the condition specified in the said rule;

(b) to its Chairman or Secretary or any other officer not being below the rank of Assistant Secretary-

(i) its powers to approve time table of stage carriage permit;

(ii) its powers under sub-section (2) of section 81 to renew or to refuse to renew all kinds of permit other than a temporary permit or a special permit:

(iii) its powers under sub-section (1) and sub-section (2) of section 87 to grant a temporary permit provided that such powers may also be

delegated to the Additional Secretary or Assistant Secretary or Additional Assistant Secretary posted at the checkgate;

(iv) its powers under sub-section (8) of section 88 to grant a special permit;

(v) its powers under section 83 to permit replacement of the vehicle by another;

(vi) its power under sub-section (1) and sub-section (3) of section 82 to transfer or to refuse to transfer a permit from one person to

another;

(vii) its power to renew or refuse to renew countersignature of all kinds of permit ;

(viii) its power to issue a duplicate permit;

(ix) its powers to issue permit to the State Transport undertaking under sub-section (1) of section 103 or to any person under the proviso to

section 104 in respect of a notified route or a notified area;

(x) its powers to pass order as contemplated by sub- section (2) of section 103 for the purpose of giving effect to the approved scheme in

respect of a notified route or notified area;

(xi) its powers under sub-section (1) of section 86 and sub-section (4) of section 88 to suspend a permit or a countersignature of permit and

to recover from the permit holder the sum of money agreed upon in accordance with sub-section (5) of section 86:

Provided that while passing the order to recover form a permit holder the sum of money agreed upon in accordance with sub-section (5) of

the section 86, the person authorised shall specify there in the compounding

money payable by the permit holder in case he agrees for

composition, the date by which the permit holder is to intimate acceptance of composition and the date by which the composition money shall

be remitted and receipt produced; and in determining the sum of money to be recovered in lieu of suspension of permits shall have regard to

the nature, gravity and frequency of the offence committed, the quantum of punishment that would otherwise have been imposed and the

earning capacity of the vehicle with reference to the nature of the road and passenger capacity in the case of stage carriage, daily mileage

of the vehicle and hire charges, if any, in respect of other class of transport vehicles:

Provided further that the amount so recoverable in lieu of suspension of permits shall in no case be less than the amount specified the

government by notification under section 200 for composition of the offence.

(2) Notwithstanding any delegation made in favour of the Secretary or any other officer in pursuance of sub-rule (1).

(i) The Chairman may call for any record relating to such matter, powers for disposal whereof has been delegated to the Secretary or any

other officer, and dispose of the matter;

(ii) subject to the orders of the Chairman under clause (i.e. if any, Secretary may also exercise similar powers in the relation to such matter,

power for disposal whereof has been delegated to any other officer subordinate to him;

(iii) any other officer subordinate to the Secretary may refer any matter, powers disposal whereof has been delegated to him, to the

Secretary for disposal; and

(iv) the Secretary may refer, any such matter either referred to him for disposal by any other officer subordinate to him under clause (iii) or

any other matter which are to be disposed of by him under the delegation made in pursuance of sub-rule (1) to the Chairman for disposal;

(3) The State Transport Authority, may for the prompt and convenient dispatch of its business, by a general or special resolution, delegate

to its Chairman, its powers to give effect to any direction issued under section 67 by the State Government and to exercise and discharge the

powers by and functions provided in sub-sections (3) and (4) of section 68.

(4) Notwithstanding anything contained in sub-rules (1) and (2), the State Transport Authority may give general instructions as to the

manner in which the delegates shall exercise the powers delegated to them.

(5) The Secretary of the State Transport Authority shall place before the Authority a Statement of the actions taken by the various officers to

whom powers have been delegated in pursuance of such delegation in the next meeting.â??

In view of the provisions contained in sub-rule (b)(ii) of Rule 41, power has been delegated to the Secretary or any other officer to renew or to refuse

to renew all kinds of permit other than a temporary permit or a special permit as prescribed under Sub-Sec.(2) of Sec. 81 itself. Therefore, with this

delegation of power either of the Chairman or Secretary or any other officer not below the rank of Assistant Secretary can renew the permit granted

in favour of the permit holder save and except mentioned in the said provision.

11. Rule 52 of the Rules, which deals with renewal of permits, reads as follows:

â??52. Renewal of permits: (1) Application for the renewal of a permit shall be made in writing to the State/Regional Transport Authority by

which the permit was issued with in the time specified in sub- section (2) of section 81 and shall be accompanied by Part A of the permit and

the fees prescribed in rule 48:

Provided that the State/Regional Transport Authority may entertain an application for renewal of the permit made after the time referred to

above as per the enabling provisions of sub-section (3) of section 81.

(2) On receipt of the application, the State/Regional Transport Authority may call for such further particulars or documents as it may

consider to be necessary.

(3) The State/Regional Transport Authority renewing a permit shall call upon the holder to produce Part A thereof, and shall endorse Parts

A and B accordingly and shall return them to the holder.â??

(Emphasis supplied)

The above mentioned provisions, if carefully read, would indicate that the application for the renewal of a permit shall be made in writing to the State/

Regional Transport Authority by which the permit was issued within the time specified in sub-section (2) of section 81 provided that the State/Regional

Transport Authority may entertain an application for renewal of the permit made after the time prescribed in Sub-Rule (1) of Rule 51 as per the enabling provisions of sub-section (3) of Section 81. Therefore, under these rules, it is the State Transport Authority, which is competent to renew the permanent permit issued in respect of a vehicle, unless the power is so delegated under Rule 41(b)(ii) either to Chairman or Secretary or any other officer not below the rank of Assistant Secretary. But, in view of the specific statutory provision, power has been vested with the State Transport Authority to grant renewal of permanent permit issued in respect of a vehicle.

12. In the case of House of Lord in *Julius v. Lord Bishop of Oxford*, (1880) 5 AC 214, it was observed as under:-

“There may be something in the nature of thing empowered to be done, something in the object for which it is to be done, something in the title of the person or persons for whose benefit the power is to be exercised, which may couple the power with a duty, and make it the duty of the person in whom the power is reposed, to exercise that power when called upon to do so.”

13. In *Nazir Ahmad v. King-Emperor*, AIR 1936 PC 253 (2), it was held as follows:

“Whether a Magistrate records any confession is a matter of duty and discretion and not of obligation. The rule which applies is that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.”

14. Taking note of the above mentioned observation, the apex Court in *Commissioner of Police, Bombay v. Gordhandas Bhanji*, AIR 1952 SC 16, the apex Court held as under:-

“Public authorities cannot play fast and loose with the powers vested in them, and persons to whose detriment orders are made are entitled to know with exactness and precision what they are expected to do or forbear from doing and exactly what authority is making the order”. An enabling power of this kind conferred for public reasons and for the public benefit is, in our opinion, coupled with a duty to exercise it when the circumstances so demand. It is a duty which cannot be shirked or shelved nor it be evaded, performance of it can be compelled.”

15. In *Sirsi Municipality v. Cecelia Francis Tellis*, AIR 1973 SC 855, the apex Court observed that “the ratio is that the rules or the regulations are binding on the authorities.”

16. In *Sukhdev Singh v. Bhagat Ram*, AIR 1975 SC 1331, the apex Court held as follows:-

“The statutory authorities cannot deviate from the conditions of service. Any deviation will be enforced by legal sanction of declaration by

Courts to invalidate actions in violation of rules and regulations. The existence of rules and regulations under statute is to ensure regular

conduct with a distinctive attitude to that conduct as a standard. The statutory regulations in the cases under consideration give the

employees a statutory status and impose restrictions on the employer and the employee with no option to vary the conditions.” In cases

of statutory bodies there is no personal element whatsoever because of the impersonal character of statutory bodies “..the element of

public employment or service and the support of statute require observance of rules and regulations. Failure to observe requirements by

statutory bodies is enforced by Courts by declaring (action) in violation of rules and regulations to be void. The Court has repeatedly

observed that whenever a man’s rights are affected by decision taken under statutory powers, the Court would presume the existence of

a duty to observe the rules of natural justice and compliance with rules and regulations imposed by statute.”

17. In *Sultan Sadik v. Sanjay Raj Subba*, AIR 2004 SC 1377, the apex Court held as follows:-

“Whenever any action of the authority is in violation of the provisions of the statute or the action is constitutionally illegal, it cannot

claim any sanctity in law, and there is no obligation on the part of the Court to sanctify such an illegal act. Wherever the statutory provision

is ignored, the Court cannot become a silent spectator to such an illegal act, and it becomes the solemn duty of the Court to deal with the

persons violating the law with heavy hands.”

18. Keeping in view the above mentioned law laid down by the apex Court in various judicial pronouncements, this Court is of the considered view that

if STAT has passed judgment in consonance with the statutory provisions

contained under M.V. Act and Rules framed thereunder remitting the matter back to STA for fresh consideration of the application for renewal of permanent permit, it cannot be said that the same is illegal so as to cause interference by this Court. Needless to say that under Rule-52, power has been vested to the STA for renewal of permits and that itself is statutory one.

19. In *General Commanding-in-Chief v. Dr. Subhash Chandra Yadav*, AIR 1988 SC 876, the apex Court held as follows:-

“Rules framed under the provisions of a statute form part of the statute and the Rules have statutory force. A rule can have the effect of a statutory provision provided (i) it confirms to the provisions of the statute under which it is framed; and (ii) it must come within the scope and purview of the rule making power of the statutory authority framing the rule.”

20. Therefore, the Orissa MV Rules, 1993, having been framed in exercise of power conferred by Sections 28, 65, 96, 111 and 138 of the Motor Vehicles Act, 1988, it has got its statutory force. Thereby, if Rule 52 prescribes that it is the State Transport Authority, which is competent to grant renewal of permit, direction given by the STAT cannot be said to be illegal nor can it be said that there is an error apparent on the face of record.

21. Now, coming to the jurisdiction of the Court to interfere with the order of the State Transport Appellate Tribunal, if power is being exercised under Article 226 of the Constitution of India invoking the writ jurisdiction in the nature of certiorari, this Court is to find out that there is an error of law apparent on the face of record and not every error either of law or fact which can be corrected by the appellate or revisional authority and more particularly, the writ of certiorari is not meant to take the place of appeal. It lies where the inferior tribunal has exceeded its jurisdiction or has not proceeded in accordance with the essential requirements of law which it was meant to administer.

22. In *Hari Vishnu Kamath v. Syed Ahmed Ishaque*, AIR 1955 SC 233, a Constitution Bench of seven learned Judges of the apex Court has laid down the following propositions as well settled and beyond the dispute:

“(1) For correcting errors of jurisdiction as when an inferior Court or Tribunal acts, without jurisdiction or in excess of it or fails to

exercise it.

(2) When the Court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving any opportunity

to the parties to be heard or violates the principles of natural justice.

(3) The Court issuing a writ of Certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the

Court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous.

(4) An error in the decision or determination itself may also be amenable to writ of Certiorari, if it is a manifest error apparent on the face

of the proceedings, e.g., when it is based in clear ignorance or disregard of the provisions of law. In other words, it is a patent error which

can be corrected by Certiorari but not mere wrong decision.â??

23. In *Nagendra Nath Bora v. Commr. of Hills Division*, AIR 1958 SC 1240, the apex Court held as follows:

â??The jurisdiction under Article 226 of the Constitution is limited to seeing that the judicial or quasi-judicial tribunals or administrative

bodies exercising quasi-judicial powers do not exercise their powers in excess of their statutory jurisdiction, but correctly administer the

law within the ambit of the statute creating them or entrusting those functions to them. In other words, its purpose is only to determine, on an

examination of the record, whether the inferior tribunal has exceeded its jurisdiction or has not proceeded in accordance with the essential

requirements of the law which it was meant to administer. Mere formal or technical errors, even though of law, will not be sufficient to

attract this extraordinary jurisdictionâ??

24. In *Sewpujanrai Indrasaurai Ltd. v. Collector of Customs*, AIR 1958 SC 84,5 the apex Court held that broadly speaking an essential feature of a

writ of Certiorari is that the control which is exercised through it over judicial or quasi-judicial tribunals or bodies, is not in an appellate but supervisory

capacity.

25. Keeping the abovementioned parameters in view and applying the same to the present context, this Court is of the considered view that STAT is

well justified in directing the STA, Odisha, Cuttack to decide to grant of renewal of permanent permit to the petitioner. The claim as made by the

petitioner that direction be issued to the Secretary, STA, Odisha by modifying the impugned judgment, cannot have any justification at this stage, in

view of the fact that admittedly power has been vested under Rule-52 of 1993 Rules with the STA, Odisha, Cutack for renewal of permanent permit,

unless the power is so delegated under Rule 41(b)(ii) either to the Chairman or Secretary or any other officer not below the rank of Assistant

Secretary. Thereby, this Court does not find any error apparent on the face of record to have been committed by the STAT, Odisha, Cuttack while

disposing of M.V. Appeal No.03 of 2020 vide judgment dated 06.03.2020 and subsequent order rejecting the petitioner for insertion of the word

â??Secretaryâ?? vide Annexure-3 dated 30.05.2020 to decide the question of renewal.

26. In the result, the writ petition merits no consideration and the same is hereby dismissed. However, there shall be no order as to cost.