
(1974) 12 MAD CK 0012
In the Madras High Court

V.R. Ramakrishnan, Sri Ramakrishna Bus Service and Others	APPELLANT
Vs	
The State of Tamil Nadu and Others	RESPONDENT

Date of Decision : 10-12-1974

Acts Referred:

Constitution of India, 1950 — Article 19(1)(g), 32
Road Transport Corporations Act, 1950 — Section 3

Citation : (1976) 1 MLJ 422

Hon'ble Judges : G. Ramanujam, J

Bench : Single Bench

Judgement

G. Ramanujam, J.—As the questions involved in all the writ petitions are the same, they are dealt with together. The facts in all the cases are substantially the same. Hence it is enough to set out the facts in the first of these cases, namely W.P. No. 3558 of 1974.

2. The petitioner in W.P. No. 3558 of 1974 is operating a stage carriage on the route Madras (Broadway) to Kancheepuram since the year 1952. A draft scheme of nationalisation was proposed by the Tamil Nadu State Transport Department in regard to this route on 22nd April, 1968. The said draft scheme has been approved by the State of Tamil Nadu u/s 68-D of the Motor Vehicles Act, 1939, hereinafter referred to as the Act, and published in the Tamil Nadu Gazette dated 2nd July, 1974. As a result of the publication, the said scheme has become an approved scheme u/s 68-D(3) of the Act.

3. The petitioner had earlier impugned the validity of the proceedings initiated under Chapter IV-A of the Act by way of a writ petition in this Court as also in the Supreme Court but without success. The particulars of those proceedings are not, however, relevant for a decision in these writ petitions. During the pendency of those proceedings, as a result of the orders of the Court, the petitioner was plying his vehicle on the route under temporary permits as his pucca permit had expired by efflux of time and no renewal has been ordered. The petitioner's current temporary permit is valid up to the period of 30th November, 1974.

4. In this writ petition the petitioner has not challenged the validity of the approved scheme but he has questioned only the manner of implementation of the said approved scheme. According to the petitioner he is entitled to continue to ply on the route in question on temporary permits until the Pallavan Transport Corporation, Limited, the second respondent herein, is issued a pucca permit u/s 68-F(1) of the Act by the concerned Regional Transport Authority, in accordance with law. But the Regional Transport Authority, the third respondent, had issued certain memos on 1st October, 1974 and on subsequent dates to all the operators cancelling or withdrawing the temporary permits already issued to them, directing them to stop their vehicles forthwith and stating that if the vehicles are found to be plying on the routes thereafter, the same will be impounded. The petitioner, has, therefore, sought a writ of mandamus from this Court to forbear the respondents from interfering with the petitioner's plying of his buses on the route in question till pucca permits are issued u/s 68-F(1) of the Act to the second respondent.

5. The petitioner raises the following contentions in support of his plea that he is entitled to continue to ply his vehicle on the route in question notwithstanding the approved scheme. (1) So long as there is no prescription of the manner in which any State Transport Undertaking has to apply for the stage carriage permit as contemplated in Section 68-F(1) no permit could validly be issued to it by the State Transport Authority for implementation of the approved scheme.

(2) Till the approved scheme is validly implemented there cannot be any prohibition on the existing operators plying their vehicles on the route either on the basis of a pucca permit or on the basis of a temporary permit.

(3) Pucca permit has been applied for by the second respondent in all these cases u/s 68-F(1) to the Deputy Transport Commissioner (Nationalisation) who is not the Regional Transport Authority constituted u/s 44 and that, therefore, all these applications are invalid.

6. Mr. K.K. Venugopal, Learned Counsel for some of the petitioners submits that the petitioner has got a fundamental right to carry on his business of running a public carrier on the highways under Article 19(1)(g) of the Constitution, that such a right cannot be denied to him by the State on the ground that it owns the highways though it is entitled to impose limitations and restrictions in the interest of the general public or exclude him wholly or in part from exercising such right, by carrying on the said business either by itself or through Corporation owned or controlled by it, under Article 19(6) introduced by the Constitution Amendment Act of 1951 and that this proposition is well-established by the decision of the Supreme Court in *Sahir Ahmed v. State of U.P.* AIR 1954 S.C. 707. According to him the petitioner's right to ply his vehicles on the route in question can be taken away either in whole or in part only when the second respondent, which is a Corporation owned by the State, is in a position to ply its vehicles on the route in implementation of the approved scheme. For appreciating the said contention it is necessary to notice briefly the relative

provisions in Chapter IV-A of the Motor Vehicles Act, 1939 as amended by Madras Act XVIII of 1968.

7. Section 68-A(4) defines "State Transport undertaking" as any undertaking providing road transport service where such undertaking is carried on by the Central Government or the State Government or any Road Transport Corporation established u/s 3 of the Road Transport Corporations Act, 1950. Section 68-B gives an overriding effect to the provisions of Chapter IV-A or any other law for the time being in force. Section 68-G empowers a State Transport undertaking, hereinafter referred to as the undertaking, to prepare and publish its scheme of road transport service in relation to any area or route or portion thereof if it is of the opinion that for the purpose of providing an efficient, adequate, economical and properly coordinated road transport service it is necessary in the public interest to run and operate the road transport services. Section 68-GC(1) enables the undertaking to apply, after the publication of the scheme u/s 68-G, for a temporary permit in respect of the area or route or portion thereof specified in the said scheme and the State Transport Authority to issue a temporary permit on such application, notwithstanding anything to the contrary contained in Chapter IV or Chapter IV-A. Sub-section (2) of Section 68-GG says that a temporary permit issued under Sub-section (1) shall be effective till the grant of pucca permit to the undertaking under Sub-section (1) of Section 68-F, provided that if the scheme is not approved u/s 68-D(2), a temporary permit shall be effective till the expiration of a period of one week from the date of refusal to approve the scheme. u/s 68-D(1), the existing operators along or near the area or route proposed to be covered by the scheme and any association representing persons interested in the provision of road transport facilities recognised by the State Government and any local authority or police authority within whose jurisdiction any part or area or route lies can file their objections to the scheme within 30 days from the date of its publication in the official gazette. Sub-section (2) of that Section gives an opportunity to the objectors to be heard in person, if they so desire before the scheme is approved or modified by the State Government. Under Sub-section (3) the scheme as approved or modified under Sub-section (2) shall be published in the official gazette by the State Government and on such publication it becomes final and is called an approved scheme and the area or route to which it relates is to be called "notified area" or "notified route". Section 68-E provides for the cancellation or modification of the scheme by the undertaking.

8. Sub-section (1) of Section 68-F is as follows:

Where, in pursuance of an approved scheme, any State Transport undertaking applies (in such manner as may be prescribed by the State Government in this behalf) for a stage carriage permit or a public carrier's permit or a contract carriage permit in respect of a notified area or notified route (the State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case) shall issue such permit to

the State Transport undertaking, notwithstanding anything to the contrary contained in. Chapter IV.

The expression "in such manner as may be prescribed by the State Government in this behalf" occurring in this Sub-section was substituted for the expression "in the manner specified in Chapter IV" with effect from 1st October, 1970 by Section 41 of Central Act LXVI of 1969. The words "State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case" have been substituted for the words "Regional Transport Authority" with effect from 2nd March, 1970 by the same amending Act. Thus as per the amended provision set out above, in pursuance of an approved scheme, any undertaking can apply "in such manner as may be prescribed by the State Government." for a stage carriage permit in respect of a notified area or notified route and the State Transport Authority in any case where the said area or route lies in more than region and the Regional Transport Authority in any other case shall issue such permit notwithstanding anything to the contrary contained in Chapter IV. The word "prescribed" has been defined u/s 2(21) as prescribed by rules made under this Act. So the Sub-section contemplates the filing of an application by the undertaking for a permit in the manner prescribed by the rules by the State Government under Section 68-1. Sub-section (I-A) of Section 68-F says that after the publication of a scheme u/s 68-G the undertaking may apply for a temporary permit in respect of any notified area or route or portion thereof for the period intervening between the date of the publication of the draft scheme and the date of publication of the approved or modified scheme, and where such application is made the State Transport Authority or the Regional Transport Authority as the case may be, hereinafter called compendiously the Transport Authority, shall issue such a temporary permit if it is satisfied that it is necessary to increase in the public interest the number of vehicles operating in such area or route or portion thereof. Sub-section (1-B) provides that a temporary permit issued u/s (1-A) shall be effective (i) if the scheme is published under Sub-section (3) of Section 68-D until the grant of the permit to the undertaking under Sub-section (1) or (ii) if the scheme is not published under Sub-section (3) of Section 68-D, until the expiration of the one week from the date on which the order under Sub-section (2) of Section 68-D is made. Sub-section (1-G) enables the Transport Authority, to grant, subject to such conditions as it may think fit to impose, temporary permit to any person in respect of the area or route or portion thereof specified in the scheme if no application for a temporary permit has been made under Sub-section (1-A) and provides that a permit so granted shall cease to be effective on the issue of a pucca permit to the undertaking in respect of that area or route or portion thereof. Sub-section (1-D) gives a mandate that "save as otherwise provided in Sub-section (1-A) or Sub-section (1-G)", no permit shall be granted or renewed during the period intervening between the date of publication, u/s 68-G, of any scheme and the date of publication of the approved or modified scheme, in favour of any person or any class of road transport service in relation to an area

or route or portion, thereof covered by such scheme". Sub-section (2) of Section 68-F enables the Transport Authority, to refuse to entertain any application for grant or renewal of any permit, or reject any such application as may be pending, or cancel any existing permit or modify the terms thereof by rendering the same in effective, or reduce the number of vehicles authorised to be used under the permit, or curtail the area or route covered by the permit in so far as such permit relates to the notified area or notified route for the purpose of giving effect to the approved scheme. Section 68-FF imposes a restriction on the Transport Authority, not to grant any permit in respect of any notified area or notified route except in accordance with the provisions of the approved scheme.

9. Briefly stated, under the provisions above referred to, a statutory authority called State Transport undertaking is authorised to initiate a scheme of nationalisation of a bus transport, the aggrieved parties are given opportunity to file objections thereto, and the State Government is empowered, after hearing those objections, to approve or modify the scheme as the case may be. After the publication of the draft scheme u/s 68-G the undertaking can apply for and obtain a temporary permit to run its vehicles on the area or route covered by the scheme until grant of a pucca permit u/s 68-F(1), and once the scheme is published no private operator can get a pucca permit except in accordance with the said scheme.

10. It is not in dispute that the second respondent as a State Transport undertaking is running its vehicles on some of the notified routes, on temporary permits issued u/s 68-F(1-A) pending the grant of pucca permit under Sections 68-F(1), and in respect of other routes on permits issued u/s 68-F(1). The validity of the approved schemes covering the above routes has not been challenged now. Therefore, we have to proceed on the basis that there are valid approved schemes covering the routes in question and the second respondent is also plying its vehicles in all the notified routes either on temporary permits issued u/s 68-F (1-A) or on pucca permits issued u/s 68-F(1). It is in the light of these facts the contentions of the writ petitioners have to be considered.

11. According to the Learned Counsel for the petitioners the power to issue permits to an undertaking u/s 68-F(1) can be exercised only when the State Government prescribes the manner of application, for a permit by the rules and as the State Government has not framed the rules in this behalf, the undertaking cannot validly apply for a permit in implementation of the approved scheme and that so long as the scheme is not implemented the Transport Authority cannot refuse to renew the petitioners' permits or refuse to grant temporary permits to them as the proviso to Section 68-FF specifically enables the grant of temporary permits to others in respect of the notified area or notified route if no application for a permit has been made by the undertaking in respect of that area or route. It is said that so long as there is no possibility, in the absence of rules, of any valid grant of permit as contemplated by Section 68-F(1) in respect of any notified route in pursuance of an approved scheme, the petitioners cannot be

prevented from operating their vehicles on that route. The question, therefore, is whether the second respondent's applications for pucca permits before the Transport Authority are valid or not. If the applications are not valid, then the proviso to Section 68-FF will come into play, in which case it is for the Transport Authority to consider the question of grant of temporary permits to any person in respect of the notified route if there is need. After the approved scheme takes effect, admittedly the Transport Authority cannot grant or renew any permit in respect of any notified route except in accordance with the said scheme in view of the restriction contained in Section 68-FF and as such the petitioners cannot seek renewal of their permits after the approved scheme has come into existence except in accordance with that scheme. Whether their applications for temporary permits could be considered under the proviso to Section 68-FF depends on the question as to whether or not the second respondent has made an application for a permit in respect of the routes in question u/s 68-F(1).

12. The Learned Counsel for the petitioners contend that in the absence of the rules prescribing the manner of application as contemplated by Section 68-F(1) there cannot be any valid application for a permit. Reference is also made to the decision in *Shrinivasa Reddy and Others Vs. State of Mysore and Others*, where the Supreme Court, while considering the necessity for an application for permit u/s 68-F(1) before its amendment by Central Act LVI of 1969, held that a permit issued to a State Transport undertaking without following the procedure contemplated by the provisions of Chapter IV is invalid as the procedure is mandatory. A decision of a Division Bench of this Court in *M. Royappa Goundar and Another Vs. The Commercial Tax Officer and Another*, has also been referred to. In that case the power of reassessment under the Madras Entertainments Tax Act, 1939 introduced by the amending Act of 1966 was subject to the condition of its exercise within the period prescribed by the rules. But no rules had in fact been framed fixing the period before which the power to reassessment is to be exercised. It was held:

Where power is given by a legislative provision in terms that it can be exercised only within the time to be prescribed, it clearly follows, in our opinion, that, unless the limits of time are drawn, the power itself cannot be exercised. This is because the intention of the Legislature is that the power is not available for exercise at any time but only within the prescribed time. In the absence of prescription by rules, therefore, the intention of the Legislature is not fully effectuated, and the power is incomplete and cannot be exercised.

Thus it is the contention of the Learned Counsel for the petitioners that the rules as contemplated by Section 68-F(1) are absolutely necessary for exercise of the power to grant a permit.

13. It is conceded by the learned Government Pleader that the rules contemplated by that Section prescribing the manner of application for a permit by the undertaking have not been framed. He, however, contends that even in the absence of the rules applications for permit could be made and permits

obtained by the undertaking under the said Section, especially when there cannot be any rival applicant for permit in view of the existence of the approved scheme. He points out that after the coming into existence of the approved scheme in relation to a particular route the Transport Authority has no option except to issue the permit provided an application has been made by the undertaking, and that even without prescribing the manner of application, an application can be made giving the necessary details. He submits that the decisions above referred to are not quite relevant on the point, that the requirement as to the rules has to be considered in the light of the various provisions in Chapter IV-A that the rules contemplated in Section 68-F(1) are only in relation to the prescription of the manner of the application and not with reference to the mode of exercise of that power to grant a permit, and that as the Transport Authority is under an obligation to issue a permit once an application has been made by the undertaking, the framing of the rules by the Government cannot be said to be obligatory. He refers to the decision in *Murugesan v. Collector of North Arcot* (1966) 2 M.L.J. 290, as a case directly in point.

In that case the scope of Section 16 of the Madras Panchayats Act to divide the village or town into wards "in accordance with such scale as may be prescribed" came up. But no rules had been framed by the State Government in that regard. The Inspector, however, proceeded to divide a village into wards and directed the conduct of election for those wards as divided. The question arose as to whether such division, of the village into wards in the absence of the rules fixing the scale contemplated by the Section was valid. The Bench expressed the view that the framing of rules is not obligatory on the part of the Government, and that the Section having imposed a duty on the Inspector to divide the village into wards for the conduct of the elections that duty cannot be postponed until after the framing of the rules by the Government as and when they chose. The Bench pointed out that the enabling power given to Government to make rules u/s 16 was not a condition precedent to the exercise of the jurisdiction conferred on the Inspector. This decision supports the contention of the learned Government Pleader that the power to grant a permit to the applicant which is necessarily coupled with a duty cannot be kept in abeyance till the rules are framed and that the existence of the rules providing the manner of application, in the face of an approved scheme, is not a condition precedent for exercise of the power to grant a permit u/s 68-F (1) and that in the absence of the rules the Transport Authority can have its own procedure, relating to the manner of application.

14. The learned Government Pleader also refers to the decision of the Supreme Court in *Dhani Devi Vs. Sant Bihari and Others*, wherein their Lordships pointed out that in the absence of any statutory rule the Regional Transport Authority may devise any reasonable procedure for dealing with a particular situation and that where the statute does not require any particular procedure to be followed by any administrative agency, it may adopt any reasonable procedure to carry out its functions. Relying on the said decision he states that inasmuch as there

are no rules framed by the State Government the permit-granting authority can follow its own procedure in the receipt of application for permit u/s 68-F(1).

15. Deep Narain Pandey and Others Vs. State of Bihar and Others, , was a case where a draft scheme u/s 68(c) and the approved scheme u/s 68-D were challenged as invalid on the ground that no rules prescribing the form in which any draft scheme or approved scheme is to be published as contemplated in Section 68-1 existed. It was held in that case that Section 68-1 does not impose a duty upon the State Government to make rules and that the failure on the part of the State Government to make the rules cannot affect the legal validity either of the draft scheme or of the approved scheme and that it was not necessary before framing or approving a scheme that the rules must be framed u/s 68-1 of the Act. In The Dargah Committee, Ajmer Vs. State of Rajasthan, , the validity of Section 222(1) of the Merwara Municipalities Regulation, 1925 was challenged on the ground that unless rules are framed and the form of notice is prescribed as required by Section 234 of the Act no demand can be said to have been made in the manner prescribed by rules and so the proceedings u/s 234 were invalid. The Supreme Court while rejecting that contention expressed the view that if the rules are not prescribed as required by Section 234, then all that can be said is that there is no form prescribed for issuing a demand notice, but that it does not mean that the statutory power conferred u/s 222(1) to make a demand is unenforceable and an amount which is claimable by virtue of Section 222(1) does not cease to be claimable just because rules have not been framed prescribing the form for making the said demand. In Rex v. Lincolnshire Appeal Tribunal, Stubtins, Ex parte (1917) 1 K.B. 1, the question arose as to whether a right of appeal given by the statute can be said to have been lost if notice of appeal had not been given in the prescribed form. The Court held that the appellate jurisdiction could be exercised in the absence of a notice of appeal in the prescribed form, that it is not a condition precedent to the exercise of the appellate jurisdiction and that the requirement as to the form of notice of appeal is only directory and not mandatory or imperative.

16. On a due consideration of the matter in the light of the above decisions, I am of the view that the failure of the Government to make rules prescribing the manner of application for a permit by the Transport undertaking will not take away the power of the Transport authority to issue a permit or the right of the Transport undertaking to get a permit u/s 68-F(1). It is true, where an Act creates an obligation and enforces its performance in a specified manner, then the general rule is that performance cannot be enforced in any other manner. But Section 68-F(1) which creates an obligation on the Transport Authority to grant a permit on an application by an undertaking does not say that the performance of that obligation is subject to any condition. Even if the statute has prescribed the manner of application, it can only be taken as directory and not imperative in the context of the approved scheme. Where the statute has left the manner of application to the rulemaking authority to prescribe and the rule-making authority has not chosen to prescribe the manner of application, can it be said

that the statutory obligation to grant a permit by the Transport Authority and the statutory right of the undertaking to get a permit are taken away? The right to require a permit by the undertaking and the power of the Transport Authority to grant a permit which is coupled with a duty cannot be taken away by the inaction of the Government to frame rules.

17. Besides, once an approved scheme comes into existence the issue of a permit u/s 68-F(1) to the undertaking is a mere legal formality, as there cannot be any opposition by any objector and, therefore, the absence of a prescription as to the manner of application cannot be said to be of much consequence. It has been held by the Supreme Court in *Abdul Gafoor Vs. State of Mysore*, that the Transport Authority acts wholly in a ministerial capacity while dealing with an application of the undertaking u/s 68-F(1). Once the provisions of Chapter IV have been excluded in the case of applications for permit made by an undertaking in pursuance of an approved scheme, the issue of permit in favour of that Transport undertaking is automatic and does not depend on the manner of application. The Transport Authority had no option but to issue the permit to the undertaking. If the manner of application has been prescribed by the State Government the undertaking may follow that manner. In the absence of a prescription of the manner by the rules, the application for permit can be in any manner acceptable to the permit-issuing authority. I am, therefore, of the view that the undertaking can apply for a permit u/s 68-F even in the absence of the rules prescribing the manner of application, and the applications filed by it for permits cannot be said to be invalid or incompetent.

18. According to the learned Government Pleader, even assuming that the permit cannot be validly granted to the undertaking u/s 68-F in the absence of the rules, the petitioners who have no right to apply for and get a permit to ply their vehicles on the notified routes in view of Section 68-FF, cannot question the second respondent's right to run its vehicles on the notified routes even without a permit, and reliance is placed on the decisions of the Supreme Court in *Kalyan Singh v. State of U.P.* (1963) 1 S.C.J. 50 : AIR 1962 S.C. 1184 and *Sobhraj Odharmal Vs. State of Rajasthan*, . In *Kalyan Singh v. State of U.P.* (1963) 1 S.C.J. 50 : AIR 1962 S.C. 1184, there was an approved scheme in relation to a particular route. As a result of the scheme a notification was issued u/s 68-F(2) of the Motor Vehicles Act cancelling the renewed permit issued in favour of an existing operator. The said operator challenged the validity of the scheme and the cancellation of his licence. The Supreme Court upheld the validity of the scheme and also justified the cancellation of the licence. It held that the scheme having been validly promulgated and having become final u/s 68-D(3) it had the effect of extinguishing all rights of the existing operators to ply their stage carriages under their permits and the cancellation of the permits of the operator was purely consequential on the scheme, and that once the right of an operator to ply his vehicles was validly extinguished, he could not question the right of the State Transport Authority to ply their stage carriages with or without permits in pursuance of the approved scheme. *Sobhraj Odharmal Vs. State of Rajasthan*,

was also a similar case. There on an approval of a scheme u/s 68-D(3), the Regional Transport Authority ordered the undertaking to operate on the notified route and cancelled the permits of the private operators. The undertaking commenced operating its buses on the route even without obtaining permits. The private operators whose permits had been cancelled moved the High Court for a writ to quash the scheme but without success. Thereafter they took the matter to the Supreme Court and one of them filed a petition under Article 32 of the Constitution alleging that his right to carry on business had been infringed by the scheme and the cancellation of the permit. The Supreme Court held that once a scheme was legally made and published, the permits of the private operators on the route could be validly cancelled, that they would not, thereafter, be entitled to challenge the plying of the vehicles by the undertaking with or without permit and that since the permits of the private operators were lawfully cancelled, they had no fundamental right which could be infringed. In this case the earlier decision in *Kalyan Singh v. State of U.P.* (1963) 1 S.C.J. 50 : AIR 1962 S.C. 1183, had been referred to and followed. The principle of the above decisions is applicable to the case of the petitioners.

19. Once the schemes are approved and published as contemplated u/s 68-D(3) and those schemes have not been challenged, the petitioners who have no valid permits u/s 42(1) of the Act have no fundamental rights to be infringed by the second respondent plying its buses under the permits issued to it by the Transport Authority even without the aid of the requisite rules prescribing the manner of application for a permit. Section 68-FF is absolute in its terms and it states that once a scheme has been published u/s 68-D(3) in respect of any notified route, the Transport Authority shall not grant any permit except in accordance with the provisions of the scheme. Under the approved scheme the petitioners are not entitled to ply their vehicles in respect of the routes covered by the scheme and, therefore, they cannot apply and obtain permits on those routes. Therefore, whether the second respondent runs its vehicles on the notified route on the basis of a valid permit or not, the petitioners cannot challenge the plying of vehicles by the second respondent on the notified routes, for in any event they are not entitled to any permit on those routes.

20. It is also not possible to accept the petitioners second contention that the petitioners are entitled to run their vehicles on the notified routes till pucca permits are validly granted to the second respondent u/s 68-F(1). u/s 68-F(1) a statutory duty is imposed upon the Transport Authority to issue permits to the undertaking, if an application is made in that behalf pursuant to an approved scheme. Hence the issue of a permit under that Section is a mere formality. Section 68-FF prohibits the grant of any permit except in accordance with the approved scheme. Therefore, whether the second respondent had validly applied for a permit u/s 68-FF(1) or not, so far as the petitioners are concerned, they are not entitled to get a permit after the approved scheme has come into existence. u/s 68-F(2), for the purpose of giving effect to the approved scheme in respect of a notified route the Transport Authority may refuse to renew a permit, cancel

any existing permit or modify its terms so as to render it ineffective beyond a specified date. Exercising the power of cancellation of a permit or of making it ineffective beyond a specified date is not dependent upon the grant of any permit to the State Transport undertaking under Sub-section (1) of Section 68-F. Dealing with the conditions under which the power u/s 68-F(2) may be exercised the Supreme Court in *The Samarth Transport Co. (P) Ltd. Vs. The Regional Transport Authority, Nagpur and Others*, , has observed:

This power does not depend upon the presentation of an application by the State Transport undertaking for a permit. This power is exercisable when it is brought to the notice of the authority that there is an approved scheme, and to give effect to it, application for renewal cannot be entertained.

The above observation of the Supreme Court sufficiently answers the contention of the petitioners that they are entitled to continue to operate on the basis of at least temporary permits till there is a valid presentation of an application, by the undertaking for a permit u/s 68-F(1).

21. As regards the third contention, I consider that the said question does not arise in these cases where the relief sought for is only a writ of mandamus to forbear the respondents from interfering with the petitioners' plying of their buses on specified routes. The validity of the permits, if any issued, to the second respondent has not been challenged here." Even otherwise in view of the decisions of the Supreme Court referred to above, the petitioners who have no right to ply their vehicles on the notified routes after the scheme is approved cannot challenge the validity of the permits issued in favour of the State Transport Undertaking.

22. Therefore all the contentions put forward by the petitioners fail and consequently all the writ petitions are dismissed. The rule nisi in each case is discharged, and there will be no order as to costs in contested matters.