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TMT. T.P.K. THILAGAVATHY

v.

THE REGIONAL TRANSPORT AUTHORITY AND OTHERS

NOVEMBER 29, 1994

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[A.M. AHMADI, C.J., R.M. SAHAI AND B.L. HANSARIA, JJ.]

Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992—Provisions prohibiting grant of any permit overlapping whole or part of the notified route after 30.6.90 held valid.

C

S.10—Interpretation of—Held—Could not be interpreted to enable grant of permits even after 30.6.90 upto the date of publication of the Act i.e. 31.7.92. Grant of permit after 30.6.90—Legality of—Such permits even though granted on consent memo, held, rightly quashed by the High Court.

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Constitution of India, 1950—Article 14—Prohibition of grant of any permit overlapping whole or part of notified route after 30th June 1990—Creating two classes among small operators—Cut off date—Held, not violative of.

E

The appellants, private stage carriage operators to whom permits had been granted between 1976 and 1990 for plying either on intra or inter state routes, were excluded from operating on any part of the nationalised routes after the addition of chapter IV-A in the Motor Vehicles Act, 1936; Chapter IV-A framed various schemes in 1976 nationalising different routes. But State Transport Authority issued new permits and renewed existing ones for bifurcated and traversed part of the notified route. State Undertaking challenged this action of STA before the High Court and the permits which overlapped even a portion of nationalised routes were declared invalid. This decision was challenged in this court by Pandiayan Roadways* and the decision of High Court was upheld and permits granted for such routes were held invalid. This rendered approximately 4000 permits invalid. To meet this situation State issued Government Order No. 2222 of 87 and introduced a legislative bill for renewal of permits of such holders, but the bill was not passed. In the meantime Motor Vehicles Act 1936 was repealed by Motor Vehicles Act 1988 (Act No. 59 of 1988) in which

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*. *Pandiyan Roadways Corporation Ltd. v. Thiru M.A. Egappan*, AIR (1987) SC 958 = [1987] 2 SCR 391.

Chapter VI contained similar provisions of Chapter IV-A of old Act. A
The new Act came into force on 1st July, 1989 and it permitted pending
schemes to be published and approved within one year *i.e.* on or before
30th June 1990, on expiry of which it was to lapse. Government in the
wake of interpretation placed by this Court in *Pandiyan Roadways*,
issued G.O. No. 1794 and 1990 withdrawing its earlier order of 87, and
an ordinance repealing the legislative assembly bill. B

The writ petition, which was filed by the small operators against
this was dismissed by the court and Tamil Nadu Motor Vehicle (Special
provisions) Repeal Act, 1991 was passed repealing the Legislative
Assembly Bill. The Operators approached this Court in which an
interim order was passed. The State Legislature enacted the impugned C
Act which came into force on 31st July, 1992. The Act placed complete
embargo on issue of fresh permits after 30th June, 1990 as it provided
that sections 1 to 5 and 8 to 11 were deemed to have come into force on
4th June, 1976 and ceased to be in force on 30th June, 1990.

Its validity was challenged as violative of Article 14 for creating D
two classes among small operators - one, those to whom permits had
been granted on or before 30th June, 1990 and others to whom permits
were issued after 30th June, 1990, by taking 30th June, 1990 as cut-off
date which was arbitrary and against legislative objective and purpose.
High Court dismissed the Writ Petition by holding that the cut-off date E
was rational and prohibition in the Act against grant of any new permit
was valid. Hence, these appeals.

Dismissing the appeals, this Court

HELD : 1.1. From the statement of objects and reasons and the F
provisions in the Motor Vehicles Act, it is clear that the Legislature
intended, in public interest, to remove the sudden hardship to common
public due to decision rendered by this Court in *Pandiyan Roadways*.
But the State Legislature having accepted the interpretation placed by
this Court in *Pandiyan Roadways*, except for those to whom permits
were granted earlier, the appellants cannot claim to be treated G
similarly and placed in that class of operators who were granted
permits before 1st July, 1990. The State Legislature, in keeping with
the decision given by this Court that such a scheme as was in dispute,
was for complete exclusion of Private Operators, rightly provided, that
no permit could have been granted after the schemes were granted H

- A approval under the new Act. Therefore, the cut-off date was not violative of Article 14. [186 C to E]

B 1.2. Section 10 of the Act, is not happily worded. Literally read it may clash with sub-section (4) of section 6. A superficial reading of section 10 does give an impression that the operation of the Act for purpose of grant of permit stood extended not only upto 30th June, 1990 but upto 31st July, 1992. But this would be in teeth of sub-section (4) of section 6 and section 3 itself. The purport of the Act was to protect those operators who had been issued permits between 1976 and 30th June, 1990 and not to depart from the interpretation placed by this court. The legislature while protecting the past mistakes of the Government has taken care not to repeat it in future. This is not discrimination but accepting the decision given by this court. Further it is a validating provision. In absence of it the action of the authorities granting permits which was legislatively made permissible by sections 3 and 4 would not have been saved. It too ceased to operate from 30th June, 1990 in view of sub-section (3) of Section 1. [191 A to C]

D 1.3. A provision which was legislatively dead on 30th June, 1990 could not be deemed to be alive for purpose of grant of permit because of the expression 'the date of publication of this Act in the Tamil Nadu Government Gazette' appearing in the provision. The High Court thus did not commit any error in dismissing the writ petition of those operators whose claim for new permit after 30th June, 1990 was rejected by the authorities. [191 E]

E *M/s Adarsh Travels Bus Service and Another v. State of U.P. and Others*, AIR (1986) SC 319; *Pandiyan Roadways Corporation Ltd. v. Thiru M.A. Egappan*, AIR (1987) SC 958 = [1987] 2 SCR 391 and *S.V. Sivaswami Servai v. Hafez Motor Transport (firm) and Ors.*, [1990] 4 SCC 459, relied on.

F CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 540-42/94 Etc. Etc.

G Against the Judgment and Order dated 30-4-93 in W.P. Nos. 17570, 19798/92 and 2200/93 of the High Court of Madras.

H V. Subramaniam, K.K.Venugopal, C.S. Vaidyanathan, R. Mohan, R. Nedumaran, V.G. Pragasam, S. Srinivasan, Ramalingam, V.T. Gopalan, A.T.M. Sampath, P.P. Tripathi, Vineet Kumar, P.R. Seetharaman, A. Mariarputham, Aruna Mathur and M. Palani for the appearing parties.

The Judgment of the Court was delivered by

R. M. SAHAI, J. What arises for consideration in these appeals directed against judgment and order of the High Court of Madras is whether the provision of the Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992 (Act No. 41 of 1992) (hereinafter called 'the Act') prohibiting grant of any permit overlapping whole or part of the notified route after 30th June, 1990 is invalid and *ultra vires* being violative of Article 14 for creating two classes among small operators by arbitrarily providing cut-off date and what is the ambit and scope of Section 10 and whether the decision of this Court in *Pandiyan Roadways Corporation Ltd. v. Thiru M. A. Egappan* AIR (1987) SC 958 = [1987] 2 SCR 391 requires reconsideration.

In the State of Tamil Nadu the State Government after addition of Chapter IV-A in the Motor Vehicles Act, 1939 framed various schemes in 1976 nationalising different routes. The effect of publication of the draft scheme was that the private stage carriage operators were excluded from operating on any part of it. But on various routes there were bifurcations; and the State Transport Authorities issued new permits and renewed existing permits for these routes which in course of its journey traversed part of the notified route, under the impression that exclusion of private operators under the Scheme was partial only. It was challenged by State Transport Undertaking (in brief 'the Undertaking') and its claim was upheld and such permits which overlapped even a portion of the nationalised route were declared invalid. One of such permit-holders who was an operator on a non-notified route, while getting its permit renewed, got permission to ply on a route part of which overlapped notified route, approached this Court and in *Pandiyan Roadways* (supra) the decision of the High Court was upheld and it was held that in view of the decision given by the Constitution Bench in *M/s. Adarsh Travels Bus Service and Anr. v. State of U.P. and Ors.*, AIR (1986) SC 319 the permits granted by the State to state carriage operators which overlapped any part of the notified route were invalid. The Court held that only those operators were entitled to ply on part of notified routes who were permitted to do so by the scheme itself. The effect of this decision was that large number of permits of private operators, nearly 4000, were rendered invalid. To meet this extraordinary situation, when 4000 vehicles run by small operators (each having not less than 5 permits) were in danger of going off the road, which was oppressive not only to the operators but it exposed the public to great hardship and inconvenience and made it well-nigh impossible either for the State or the Undertaking to replace the vehicles which involved an

- A expenditure of nearly Rs. 300 crores, the State issued Government Order No. 2222 in 1987 to the authorities to renew permits of such operators and requested the Undertaking not to oppose it. It also introduced a Bill (L.A. Bill No. 42 of 1987), the object of which was to 'grant permits to small operators.....to ply their stage carriage on any portion of the area or route covered by the draft schemes or the approved schemes.' The Bill was
- B assented to by the President, as well, but it was not published, consequently it never came into force. In the meantime the Motor Vehicles Act, 1939 was repealed by the Parliament and Motor Vehicles Act, 1988 (Act No. 59 of 1988) came into force from 1st July 1989. It permitted pending schemes to be published and approved within one year after expiry of which it was to lapse. The schemes, therefore, had to be approved on or before 30th June
- C 1990. In the State there were 800 schemes which had been published and were pending approval. Out of these 251 schemes were approved between 22nd and 30th June 1990. Chapter VI of the new Act contains similar provisions as were in Chapter IV-A of the repealed Act. The effect of approval of the schemes under the new Act and the interpretation placed by this Court in *Pandiyam Roadways* (supra) was that no private operator could
- D ply on part of notified route and the Government Order No. 2222 of 1987 had to be withdrawn. The Government, therefore, issued Government Order No. 1794 in August 1990 withdrawing the earlier order issued in July 1987 in wake of the judgment in *Pandiyam Roadways* (supra). It was followed by an Ordinance issued on 8th October 1990 repealing L.A. Bill No. 42 of
- E 1987. The small operators, thus, once again were faced with the difficulty in which their vehicles were likely to become stationary. They, therefore, filed different batch of writ petitions seeking by one, *mandamus* from the Court to direct the State to publish the L.A. Bill No. 42 of 1987 and by other, challenged validity of the Government Order issued in 1990 withdrawing earlier Government Order of 1987. The petitions were
- F dismissed on 9th October 1990. On 24th January 1991 Tamil Nadu Motor Vehicles (Special Provisions) Repeal Act, 1991 was passed repealing L.A. Bill No. 42 of 1987. The operators numbering approximately 4000 who had been granted permits overlapping notified route after 1976 approached this Court through their association known as Federation of Operators' Association by way of two Writ Petitions Nos. 361 and 365 of 1991 under
- G Article 32 of the Constitution of India for different relief with same objective in which an interim order was passed and doubt was expressed on *Pandiyam Roadways*. The State Legislature, in these circumstance, enacted the impugned Act which came into force on 31st July 1992.

- H Due to the uncertainty prevailing in the State as a result of different orders issued by the Government from time to time, the transport

authorities appear to have issued permits to private operators even after 1987. But when the Act came into force in July 1992 with eleven sections it provided that Sections 1 to 5 and 8 to 11 were deemed to have come into force on 4th June 1976 and ceased to be in force on 30th June 1990. The Act placed complete embargo on issue of fresh permits after 30th June, 1990. Therefore, its validity was challenged by those operators who had been issued permits after 30th June, 1990. The principal attack was founded on absence of any justification for classifying the operators in two classes - one, those to whom permits had been granted till 30th June, 1990 and others, to whom permits were issued after that date. It was claimed that the basic purpose of the enactment being to protect the interests of small operators, the classification amongst them by taking 30th June 1990 as cut-off date was arbitrary and against legislative objective and purpose. The prohibition in the Act against grant of any new permit was challenged as it was contrary to the policy pursued by State Government from 1976 onwards and it was claimed that the very purpose of the Act by which the Legislature intended to perpetuate its earlier policy of permitting small operators to ply on overlapping notified routes would stand frustrated. Validity of Section 7 abating the proceeding for grant of permit was also assailed. The High Court did not find any merit in any of the submissions. It was held that the cut-off date as 30th June, 1990 was rational as the Motor Vehicles Act of 1939, having been repealed and the new Act having come into force from 1st July, 1989 with a provision that the schemes pending on the date when the Act came into force would be valid only for one year, namely, upto 30th June, 1990 unless they were approved and published, the State Legislature, keeping the provisions of the Central enactment in view, considered it appropriate to fix the cut-off date from the date the time to get the schemes approved, lapsed. The High Court held that even under the new Act Chapter VI provides for the same scheme as was earlier provided by Chapter IV-A. Therefore, when the Legislature enacted Act 41 of 1992 it, while protecting those in whose favour permits were granted before the decision was given in *Pandiyan Roadways* (supra), accepted the interpretation placed by this Court by prohibition grant of any new permit overlapping even part of notified route from 1990 onwards. Nor did the Court find any merit in the submission that by virtue of Section 10 the permits granted even on or after 1st July, 1990 and till the date when the Act was passed or thereafter were valid. Aggrieved by the decision given by the High Court on various sets of petitions filed by operators who had applied and were granted permits on or after 1st July, 1990 both on intra and inter-State route, these appeals have been filed. The writ petitions, as

A stated earlier, have been filed by those operators who were granted permits between 1976 and 1990. In fact these petitions have been rendered infructuous after enactment of Act No. 41 of 1992.

B Validity of the Act was assailed, but half-heartedly, by the learned counsel for the appellants who are the stage carriage operators to whom permits had been granted for plying either on intra or inter-State routes on or after 1st July, 1990, obviously because invalidity of the Act does not advance their cause. Even otherwise, from the Statement of Objects and Reasons and the provisions in the Act it is clear that the Legislature intended, in public interest, to remove the sudden hardship to common public due to decision rendered by this Court in *Pandiyan Roadways* (supra). But State Legislature having accepted the interpretation placed by this Court in *Pandiyan Roadways* (supra), except for those to whom permits were granted earlier, the appellants cannot claim to be treated similarly and placed in that class of operators who were granted permits before 1st July, 1990. In our opinion the State Legislature, in keeping with the decision given by this Court that such a scheme as was in dispute was for complete exclusion of private operators, rightly provided that no permit could have been granted after the Scheme was granted approval under the new Act. That explains the reasons for cut-off date as the schemes were approved under the new Act in June 1990 only. Therefore, on interpretation placed by this Court, the authorities could not have granted any permit which overlapped any part of notified route. The cut-off date, therefore, was not violative of Article 14.

Prior to adverting to various provisions of the Act and whether Section 10 could be so interpreted as empowering the transport authorities to issue fresh permits even after 30th June, 1990 and whether such permits could be held to be valid under Section 10 it appears appropriate to deal with the submission advanced on behalf of the appellants which in effect was that the *Pandiyan Roadways* required re-consideration. It was urged that the principle laid down by the Constitution Bench in *Adarsh Travels* (supra) was not applicable to the schemes framed in the State of Tamil Nadu and, therefore, the decision given in *Pandiyan Roadways* (supra) based on *Adarsh Travels* (supra) was not correct. The learned counsel urged that in *Adarsh Travels* (supra) a private operator was excluded *wholly* from operating on any part of the notified route as there was no protection even to existing operators, whereas in *Pandiyan Roadways* (supra) the Court was concerned with a scheme which excluded a private operator from the notified route except to the extent it was permitted by the scheme itself. The learned counsel urged that the schemes framed in the State of Tamil Nadu

excluded private stage carriage operators from operating on 'end-to-end' basis only on any nationalised route. It was submitted that the scheme itself having permitted plying on notified route and even picking and setting down passenger from notified route, the authorities did not commit any error in granting permits and such grant was not contrary to the scheme and if such interpretation is given as was done in *Pandiyan Roadways* (supra) then it would result in not only inconvenience to the public but would be contrary to the provisions of the Motor Vehicles Act itself. A B

To appreciate the controversy, it appears appropriate to refer to one of the routes which was known as 'Udumalpet Erode Route', which came up for consideration in *Pandiyan Roadways* (supra). This Scheme was notified in 1973. It was published under sub-section (2) of Section 68-D of the Motor Vehicles Act, 1939. Schedule I to the Scheme reads as under: – C

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| 1. Area or route in relation to which the scheme is prepared. | Udumalpet to Erode with shuttle trips between Erode and Tiruppur. | |
| 2. Whether operation by the State Transport Undertaking shall be to the exclusion of other persons or otherwise. | To the exclusion of other persons as described in item 3 below. | D |
| 3. If the operation shall be to the exclusion of the other persons: | | E |
| i. Whether such exclusion shall be complete or partial | To the complete exclusion of other persons in respect of permits covering <i>the entire route</i> referred to in item 1 above. (Emphasis ours) | F |
| ii. Whether it is proposed to allow other persons to operate buses as on sector of the routes covered by the scheme. | Yes. | G |
| iii. Whether it is proposed to allow other persons to pick up or drop passengers | Yes. | H |

- A between any two places on
the route covered by the scheme.

Clause (5) of Schedule II gives the number of Stage Carriages. Clauses (a) and (b) of it are extracted below :

- | | | |
|---|---|----------------------------|
| B | a. Number of stage carriages now
operated by other persons. | As detailed in Annexure-I. |
| | b. Number of stage carriages to be
permitted to be operated by other
persons and the duration . | - do - |

- C
Annexure I contains particulars of those private operators who were operating on the route on the date the Scheme was notified. The Scheme was prepared under Section 68-C of the old Act which permitted a State Transport Undertaking to prepare a scheme for running and operating services in an area or route to the exclusion, complete or partial, of other persons. Sub-clause (i) of Clause (3) of the Scheme clearly provided that the scheme was to complete exclusion of other persons from entire route in question. Therefore, no operator could apply for a permit on notified route nor the transport authority could grant it. The exclusion was thus absolute and complete. Clauses (ii) and (iii) were added in the Scheme to enable existing operators to ply their vehicles. Protection to such operator was limited to the extent that their permits were renewable. A combined reading of sub-clauses (i), (ii) and (iii) of Clause (3) of the Scheme with Annexures I and II of the Schedule indicates that the private operators of specific category were permitted to operate on sectors of the routes and it were they alone who were permitted to pick up and set down passengers between any two places on the route covered by the Scheme. It did not contemplate grant of any new permit to any other operator overlapping the notified route. Even though it was not a Scheme like the one which came up for consideration before this Court in *Adarsh Travels* (supra), yet the exclusion was complete so far operators other than those who were mentioned in sub-clauses (ii) and (iii) were concerned. The Scheme having been framed under Section 68-C, the validity of which was not challenged, it could not have been construed as a scheme precluding an operator from 'end to end' route only. The misconception arising out of an erroneous understanding of the Scheme due to sub-clauses (ii) and (iii) was rightly corrected by this Court. We respectfully agree with the enunciation of law in *Pandiyan Roadways* (supra).
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Reverting to the provision of the Act, it is slightly unusual legislation as it came into force in July 1992 yet, except Sections 6 and 7, the remaining provisions of the Act are deemed to have come into force in 1976 and ceased to operate after 30th June 1990. The Act thus seeks to achieve dual objective - one, legislatively protecting those operators who were granted permits after 1976 under misconception by the transport authorities that the Scheme excluded other operators from 'end-to-end' route only by fictionally enabling the transport authority to have issued permits notwithstanding any provision in the Scheme framed by the Undertaking. Two, it prohibited grant of any new permit after 30th June, 1990 which overlapped whole or part of notified route, that is, the Legislature while accepting the interpretation placed by this Court on construction of Scheme prepared under Section 68-C legislatively removed the hurdle in grant of permits on notified route in past, validated the grant so made but prohibited any grant in future. Sections 3, 4, 5 and 10 are directed towards regularising and validating the permits granted between 1976 and 30th June, 1990, whereas Sections 6 and 7 achieve the latter objective. Section 3 is the main Section. Its sub-sections (1) and (2) empower a Regional Transport Authority to grant, renew or vary conditions of permit of a small operator, which, according to the Explanation to the Section, means and stage carriage operator holding not more than five stage carriage permits, to ply on a notified route or part of it notwithstanding anything contained in any draft scheme. Sub-section (3) of Section 3 provides that during the period the permit referred to under sub-sections (1) or (2) was in force the draft scheme shall stand modified to that extent. Sub-section (4) makes the provisions of Chapter V of the Act applicable to grant, renewal or variation of permit. Section 5 provides that Sections 3, 4 and 6 shall have effect notwithstanding anything inconsistent therewith contained in Chapters V and VI including Section 98 of the Motor Vehicles Act. Section 10 validates the grant of permit retrospectively. Section 3 thus created power in the transport authority to grant, renew, vary or alter permit from 1976 and Section 10 validated such grant notwithstanding anything to the contrary in the new Act. There was no challenge by the State Transport Undertaking to these provisions by which the grant of permits in favour of the operators between 1976 and 1990 has been permitted and validated.

Section 6 like Section 3 has four sub-sections. Sub-sections (1) to (3) deal with renewal of permit or modification of condition therein in accordance with same procedure as applied to renewal or variation under Chapter V of the Act. But sub-section (4) debars the authority from issuing any fresh permit. It reads as under:

- A “Notwithstanding anything contained in this Act no new permit shall be granted under this Act to any person on any route covered by an approved scheme.”

B This Section unlike other Sections came in operation from 30th June 1990. Thus from 30th June 1990 the Regional Transport Authority is not empowered to grant any new permit to any operator overlapping whole or part of notified route. But so far permits, grant of which has been validated by 30th June, 1990, would be renewable under this Section even after 30th June, 1990. The effect of Section 6, therefore, is that those operators who were granted permits between 1976 to 30th June, 1990 would be entitled to seek renewal but the authorities would not be entitled to grant fresh permit after that date. Validity of even sub-sections (1) and (2) was not challenged by the Undertaking. And sub-section (4) cannot be challenged by the appellants as it is in keeping with Chapter VI of the new Act. It is further reinforced by Section 7 which abates all proceedings pending for grant of permit on a notified route before any authority or court in appeal.

- D But what has created confusion is Section 10 which reads as under :-

E “S. 10. Notwithstanding anything contained in Chapter V or VI including Section 98 of the Motor Vehicles Act, 1988 all orders passed granting permits or renewal or transfer of such permits or any variation, modification, extension or curtailment of the route or routes specified in a stage carriage permit during the period commencing on the 4th day of June, 1976 and ending with the date of the publication of this Act in the Tamil Nadu Government Gazette, shall for all purposes be deemed to be and to have always been taken or passed in accordance with the provisions of this Act as if this Act had been in force at all material times.”

(Emphasis supplied)

- G The Section is not happily worded. Literally read it may clash with sub-section (4) of Section 6 of the Act. Reliance was placed on the expression ‘and ending with the date of the publication of this Act in the Tamil Nadu Government Gazette’. It was urged that this clearly indicated that any permit granted between 4th June, 1976 and the date of publication of the Act, namely, 31st July, 1992, would be valid. According to the learned counsel the High Court committed an error of law in dismissing the writ petition filed by the appellants on basis that their permits having been granted or counter-signed after 30th June, 1990 were invalid and contrary
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to the Scheme of the Act. A superficial reading of Section 10 does give an impression that the operation of the Act for purposes of grant of permit stood extended not only upto 30th June, 1990 but upto 31st July, 1992. But that would be in teeth of sub-section (4) of Section 6 and Section 3 itself. The purport of the Act was to protect those operators who had been issued permits between 1976 and 30th June 1990, and not to depart from the interpretation placed by this Court. The Legislature while protecting the past mistakes of the Government has taken care not to repeat it in future. This is not discrimination but accepting the decision given by this Court. Further it is a validating provision. In absence of it the action of the authorities granting permits which was legislatively made permissible by Sections 3 and 4 would not have been saved. It too ceased to operate from 30th June, 1990 in view of sub-section (3) of Section 1 which reads as under :—

“The provisions of the Act (except sections 6 and 7) be deemed to have come into force on the 4th June, 1976 and remain in force upto and inclusive of the 30th June, 1990 and section 6 shall be deemed to have come into force on the 1st July, 1990.”

A provision which was legislatively dead on 30th June, 1990 could not be deemed to be alive for purpose of grant of permit because of the expression ‘the date of publication of this Act in the Tamil Nadu Government Gazette’ appearing in the provision. The High Court thus did not commit any error in dismissing the writ petition of those operators whose claim for new permit after 30th June, 1990 was rejected by the authorities.

One Loganathan along with nine others had applied for permit which overlapped notified route. He died on 7th October 1987. His wife Samiyathal was brought on record. On 11th January 1988 permit was granted in her favour. Against this order various persons filed appeal and on 28th January 1992 a Consent Memo was filed before the appellate authority who granted the permit in accordance with the Consent Memo not only in favour of Samiyathal but others as well. Validity of this order was challenged by the State Undertaking in the High Court. It was held that since the effect of accepting the Consent Memo was to permit grant of fresh permits in favour of persons other than Samiyathal in 1992 it was violative of the provisions of the Act. Consequently the petition filed by the Undertaking was allowed and the permit granted in favour of others on basis of Consent Memo was set aside. But the order granting permit to

- A Samiyathal being of 1988, the writ filed by the Undertaking against this order was dismissed. In *S.V. Sivaswami Servai v. Hafez Motor Transport (Firm) and Ors.*, [1990] 4 SCC 459 it has been held that addition of permit on agreement was not permissible. Therefore, the High Court did not commit any error of law in allowing the writ petition of the Undertaking and quashing the permits granted on Consent Memo. Since we have agreed
- B with the decision of the High Court that no permit could have been granted after 30th June, 1990, the order passed by the High Court allowing the writ petition of the Undertaking against persons other than Samiyathal does not suffer from any error of law.

- C For these reasons all these appeals fail and are dismissed. The writ petitions on the other hand have become infructuous after coming into force of the new Act. They are dismissed as such.

Parties shall bear their own costs.

R.A.

Appeals dismissed.