A.P.S.R.T.C. A

v.

REGIONAL TRANSPORT AUTHORITY AND ORS.

APRIL 28, 2005

[N. SANTOSH HEGDE, K.G. BALAKRISHNAN, D.M. DHARMADHIKARI, ARUN KUMAR AND B.N. SRIKRISHNA, JJ.] B

Motor Vehicles Act, 1988 :

s.99—Nationalization of mofussil service—Exclusion of private operators—Exception providing that existing town services operating on notified routes not to be affected—Effect of—Held, under the Scheme entire mofussil service is covered—There is complete exclusion of all private operators holding stage carriage permits on proposed routes as well as those holding such permits on routes overlapping completely or partially with the proposed route— Under the Exception only existing operators, and not fresh applicants or future applicants, are eligible for permits. C D

Appellant-Corporation framed a Schemes under s.99 of the Motor Vehicles Act, 1988 whereunder mofussil service in a particular region of the State was nationalized. However, under Clause 2 of the Note appended to the Scheme, it was provided that the Scheme would not affect "the existing town service operating on the notified routes". Respondent No. 3, not being an existing town service operator, applied for permanent stage carriage permit on a particular town service route. The Corporation objected contending that permit was sought on a portion of notified route under the Scheme. The Regional Transport Authority rejected the application. But, the State Transport Appellate Tribunal held in favour of respondent No. 3. The Corporation challenged the order in a writ petition before the High Court and ultimately a Full Bench of the High Court held that town service route was not automatically covered under the Scheme which was specifically for mofussil service, and permits could be granted for town service routes. E F G

The Corporation filed appeals before the Supreme Court. The Bench before which the appeals were listed for hearing, noticed the earlier decision of the Supreme Court in *Andhra Pradesh State Road Transport*

 H

A *Corporation* v. *State Transport Appellate Tribunal and Ors.* * and felt that the issue be settled by a larger Bench. Therefore, reference was made to the Constitution Bench.

On the questions : Whether, in view of the Scheme which covers mofussil service and provides for total exclusion of private operators
B including operators on town service routes, and even routes overlapping with the notified mofussil service having been covered, it is permissible for Regional Transport Authority to grant permits to private operators on the notified town service routes or portions thereof; and

whether Exception 2 in the note appended to the Scheme providing
C that the Scheme shall not affect "the existing town services operating on the notified routes" relates only to existing town services operating on the notified routes so as to exclude fresh or future applicants for grant of permits :

D Answering the reference, the Court

HELD : 1.1. Rule 258 of the A.P. Motor Vehicles Rules, 1989 makes it clear that no route shall be determined as both town and mofussil service route. The words "mofussil service" suggest that the service covers a long distance having several stages on the route. Town service, on the other
E hand, as the words suggest, is normally a shorter route since it operates within the town itself. In the instant case, it is not in dispute that there is a valid Scheme with respect to the *mofussil service* for the particular region of the State. [937-C; 943-C-F]

1.2. The object of the Scheme is to nationalize the entire service.
F Under Clause 3 of the Scheme, the entire mofussil service is covered. "Service" is a term of wider connotation. In view of Clauses 4 and 5 of the Scheme, there is complete exclusion of all other persons holding stage carriage permits on the proposed route as well as those holding stage carriage permits on the routes overlapping completely or partially with
G the proposed route. A combined reading of these clauses shows that the Scheme excludes all private operators Thus, all private operators including those operating on town service routes are excluded, subject, however, to the exception. The conclusion of the Full Bench of the High Court that the town services operating on the route, even though overlapping with mofussil services are entitled to permit under the Scheme, cannot be
H accepted. [940-D-H; 941-A; 944-B]

Achyut Shivram Gokhale v. *Regional Transport Offiver and Ors.*, [1988] Suppl. SCC 696, distinguished. A

2.1. Under Exception 2 contained in the Note appended to the Scheme, permits can be issued only to existing town services operating on the notified routes. This means only existing operators on the notified routes are eligible for permits. Fresh applicants or future applicants are totally ineligible for getting permits for town services operating on notified routes. [945-A-B] B

2.2. Exception 2 has been worded restrictively. It refers to existing town services operating on notified routes. The words 'existing' and 'operating' have to be given their due meaning. These words make it clear that the exception applies to only those who were already operating the service and not to future applicants like respondent No. 3. Even otherwise, it will be seen that if the existing town services operating on the notified routes were not to be affected by the Scheme, there was no need for the exception. Therefore, it cannot be said that since town service has not been mentioned in clause 3 of the Scheme, the town service has been left free. [941-A-D; 944-B] C D

2.3. *Andhra Pradesh S.R.T.C.* v. *State Transport Appellate Tribunal and Ors.** is no authority for the proposition that future applicants are not to be barred. Secondly, everything depends on the language of the Scheme in a given case. The language of the Scheme including exception No. 2 to the Scheme in the present case is very clear and does not admit any doubt. [942-C-D] E

**Andhra Pradesh S.R.T.C.* v. *State Transport Appellate Tribunal and Ors.*,* [1998] 7 SCC 353, distinguished. F

C. Kasturi and Ors. v. *Secretary, Regional Transport Authority and Anr.*, [1996] 8 SCC 314, referred to.

2.4. It cannot be said that if future applicants are excluded, town services will suffer resulting in inconvenience to the public. The State Government has the power to modify a Scheme in case of need. The Act permits modification of a Scheme. [942-E-F] G

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3700-3712 of 2001. H

From the Judgment and Order dated 15.3.2001 of the Andhra Pradesh High Court in W.P. Nos. 17729/90, 1548, 2157/95, 4428, 6500, 6501, 6502/96, 6001, 6009, 6011, 6021/97, 15538 and 17953 of 1998.

WITH

C.A. No. 1674/96, SLP(C) Nos. 10266, 10267/97, C.A. Nos. 346-351/2002, 368-371, 374-376, 352-353, 356-357, 360-361, 364, 117-118/2002, SLP (C) No. 14923/2003, C.A. Nos. 963-969, 971- 973, 975-980, 377-379/2002, 4449 and 85 of 2004.

L. Nageswar Rao, Mrs. K. Amareswari, M.N. Rao, R. Santhanakrishnan, Jayant Muthraj, Roy Abraham, Satish, Ms. Radha Rani, G. Prabhakar, G. Ramakrishna Prasad, Guntur Prabhakar, S. Srinivasan, S.Uday Kumar Sagar, D. Mahesh Babu, C.S.N. Mohan Rao, B. Ramanamurthy, Anil Kumar, Mrs. Anjani Aiyagari, T.N. Rao, Maruthi Raja, A.V. Rangam, A.Ranganadhan, Buddy A. Ranganadhan, B. Vikas, Mrs. D. Bharathi Reddy, V.G. Pragasam, Anil Kumar Tandale, G.R. Prasad, Mrs. P.V. Padma Priya and Mrs. K. Sharda Devi with them for the appearing parties.

The Judgment of the Court was delivered by

ARUN KUMAR, J. These appeals along with connected appeals have been placed before the Constitution Bench in view of an order of reference made by a Bench of three Hon'ble Judges of this Court. For appreciating the point regarding which reference has been made, it is necessary to state a few facts. The appellant is a State Road Transport Corporation of the State of Andhra Pradesh (hereinafter referred to as the 'Corporation'). In public interest, the Corporation framed Schemes for providing transport services in different regions of the State. We are presently concerned with the West Godavari District of the State. The Schemes framed by the Corporation were subsequently approved by the State Government and notified in the official Gazette. The scheme which is subject-matter of the present appeals cover the route D.N.R. College (Bhimavaram) to Srinvavruksham. The route falls within the mofussil service which was nationalized under the Scheme. The effect of nationalization of the service is that all private operators on the entire length of the service and overlapping routes are completely excluded. No private operator can get permit to ply transport vehicles for hire on routes falling within the service. However, the Scheme contains five exceptions for which permits can be issued to private operators. One of the exceptions is in favour of "the existing town services operating on the notified routes". The main issue involved in these appeals is as to whether under the said exception

permits can be issued in favour of fresh applicants for permits for town services routes falling on or overlapping with the nationalised mofussil service.

Respondent No. 3 who is not an existing town service operator, submitted an application to the Regional Transport Authority, West Godavari for permanent stage carriage permit on the town service route. The appellant - Corporation objected to the grant of permit on the ground that permit was sought on a portion of notified route under the Scheme. The Regional Transport Authority accepted the objection and rejected the application of respondent No. 3 for grant of permit. Aggrieved by the said order respondent No. 3 filed an appeal before the State Transport Appellate Tribunal. The tribunal allowed the appeal and directed that a permit be granted to respondent No. 3 on the town service route for which he had applied. The appellant - Corporation challenged the said order by filing a Writ Petition in the Andhra Pradesh High Court. The High Court constituted a Full Bench to consider the issue in view of divergence of opinion between different Benches of the court on the issue. The Full Bench of the High Court took the view that town service routes were not automatically covered under the Scheme which was specifically for mofussil service. Therefore, it was held that the Regional Transport Authority could grant permit on the town service route. The Writ Petiton filed by the appellant - Corporation was dismissed. The present appeals are directed against the said judgment of the Full Bench.

The appeals raise two main issues :

(1) The Scheme covers mofussil service and provides for total exclusion of private operators including operators on town service routes. Even routes overlapping with the notified mofussil service stood covered. In view of this is it permissible for the Regional Transport Authority to grant permits to private operators on the notified town service routes or portions thereof ?

(2) *Exception 2 in the Note appended to the Scheme is* : " the existing town services operating on the notified routes". Does the exception relate only to existing town services operating on the notified routes meaning thereby that fresh or future applicants for grant of permit are excluded ?

When the appeals came up for hearing before a three Judge Bench of this court, *prima facie* it was felt that there was merit in the contention that only existing operators on town services notified routes could be issued permits under the exception. But a judgment of this court in *Andhra Pradesh State*

A *Road Transport Corporation* v. *State Transport Appellate Tribunal and Ors.*, [1998] 7 SCC 353 was brought to the notice of the Bench to support a contrary view that under exception No. 2, it is permissible to grant permits on town service routes to fresh or future operators. This led to a reference being made to a larger Bench. Hence the matter has been placed before this Bench.

B

At the outset, the learned counsel for the appellant - Corporation submitted that the judgment in *Andhra Pradesh State Transport Corporation* v. *State Transport Appellate Tribunal and Ors.*, [1998] 7 SCC 353 cannot be said to be an authority for the proposition that under exception No. 2 to the Scheme future applicants for permits can be granted permits for the town services on notified routes. He has taken us through the said judgment and with due respect to the referring Bench we find merit in the submission of the learned counsel for the appellant. The judgment in *APSRTC Case* is on a totally different aspect, that is, interpretation of Rule 258 of the Andhra Pradesh Motor Vehicles Rules. It has no bearing on the controversy involved in the present case. The contention raised on behalf of the State Transport Corporation in that case was that permission of the Transport Commissioner was a condition precedent for filing an application for route permit when there was a Scheme governing the route. This argument was raised on the basis of Rule 258 (2) of the Andhra Pradesh Motor Vehicles Rules, 1989. The court held that permission of the Transport Commissioner was necessary in view of Rule 258(2) before applying for a route covered under the Scheme. The second question involved in the case was regarding the extent of powers of the Transport Commissioner under Rule 258 (2). This Court answered the second question holding that the powers were not unlimited and had to be exercised as per the Scheme. Now that we have heard the learned counsel for the parties at length, we propose to dispose of the appeals on merits.

C

D

E

F

Section 99 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'the Act') envisages preparation of schemes by the State Government for rendering transport services in a State. First proposals are to be formulated regarding a scheme, i.e., regarding services proposed to be rendered in the area or the route proposed to be covered. Such a proposal is to be published in the official gazette as well as in a regional language newspaper circulated in the area. Under Section 100 any person is authorised to file objections against the proposal within 30 days of its publication. The State Government may give opportunity to the objector or his representative to appear in person for being heard regarding objections and after considering the objections the

G

H

proposal may be finalised. Thereafter, it is to be published in the official gazette by the State Government and thereupon it becomes final as a Scheme. Section 102 contains provision regarding modification of an approved Scheme in public interest. Section 103 deals with issue of permits as per the Scheme. Section 104 deals with restrictions on grant of permit in respect of notified area or notified route. It specifically prohibits the Regional Transport Authority from granting any permit except in accordance with the provisions of the Scheme. It also envisages issuance of temporary permits during a period when a regular permit is not issued. Section 88(8) authorises the Regional Transport authority to grant special permits for convenience of public. Such special permits are meant to cater to special requirements like transportation of marriage parties, stage carriages used for purposes of taking persons for pilgrimage etc. In the present case, it is not in dispute that there is a valid Scheme with respect to the mofussil service for the particular region of the State. It is also not disputed that a permit can be issued only as per the approved Scheme and not otherwise. The relevant provisions of the Scheme are reproduced as under :

SCHEME

1.....	
2.....	
3. Whether town service or mofussil service or both.	Mofussil service/Stage carriage.
4. Maximum and minimum number of vehicles proposed to be operated on each route by the State Transport Undertaking to the exclusion, complete or partial or otherwise of other persons.	No of buses details of which are furnished in the annexure will be operated to the complete exclusion of all other persons holding stage carriage permits on the proposed route and such other persons holding stage carriage permits on the routes overlapping completely or partially on the proposed route except to the extent specified in the note hereunder.
(a).....	

(b)..... (c)..... (d).....	
5. Maximum and minimum number of trips proposed to be performed on each route by the State Transport Undertaking to the exclusion, complete or partial or otherwise of other persons. (a)..... (b).....	No of round trips details of which are furnished in the annexure will be operated to the complete exclusion of all other persons holding stage carriage permits on the routes overlapping completely or partially on the proposes route except to the extent specified in the note hereunder.
6.....	
7.....	
8.....	
9.....	
10.....	

NOTE : This Scheme shall not affect :

1. The State Transport Undertaking.
2. The existing town services operating on the notified routes.
3. The holders of stage carriage permits for a distance not exceeding 5 Kms on the notified route.
4. The existing services operating on the Inter-state routes incorporated in the concluded inter-state agreement u/s 63 (3-B)

of M.V. Act, 1939, and

5. The services opeated by Devasthanams."

The learned counsel for the appellant submitted that the Scheme covers the entire mofussil service which means that all the routes falling within the particular mofussil service are covered under the Scheme. This will cover the overlapping routes and the town service routes. Unless it is so, the object of the Scheme, which is to provide cheap and efficient service to the commuters, will stand defeated. 'Service' is a word having wider connotation as compared to the word 'route'. Route may mean a particular route while service would include all the routes in a particular mofussil. When the entire service in the mofussil area is nationalized, all the routes falling within the mofussil automatically get nationalized, which will cover the town service routes also. As a result of nationalisation of the service no permits can be issued for operating transport vehicles in favour of private operators. He has drawn our attention to the definition of the word 'permit' contained in sub-section (31) of Section 2 of the Act according to which permit means a permit issued by a State or Regional Transport Authority or authority prescribed in this behalf under this Act authorising the use of motor vehicle as a transport vehicle. In view of this definition of the word 'permit', it is submitted, it means that no one can ply a motor vehicle as a transport vehicle without a valid permit. The net effect of nationalisation of the service is that the private operators become disentitled to obtain permits for plying vehicles for hire.

At this stage, we may also quote the definition of the word 'route' and 'stage carriage' as contained in sub-sections (38) and (40) of Section 2 of the Act.

"Section 2 :

****

Sub-section (38) : "route" means a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another.

(39).....

(40) "stage carriage" 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."

A Respondent No. 3 applied for permit with respect to a town service route from D.N.R. College (Bhimavaram) to Srinvavruksham. The application of respondent No. 3 was rejected by the Regional Transport Authority. According to respondent No. 3 he fell within exception No. 2 to the note appended to the Scheme and, therefore, he was entitled to get a permit for the town service route. The learned counsel appearing for respondent No. 3 B submits that the Scheme applies only to mofussil service and town service routes are not affected by the Scheme. Respondent No. 3 staked his claim to the permit on two grounds :

(1) that the town service routes are not covered under the Scheme and C

(2) the exception regarding town service route will include not only the existing operators but also those who apply for fresh permits.

Regarding the first point urged on behalf of respondent No. 3, one needs to consider the Scheme, particularly clauses 3, 4 and 5 of the Scheme, D which have been quoted hereinbefore. Under clause 3, the entire mofussil service is covered. "Service", as already stated, is a term of wider connotation. Then, with reference to clauses 4 and 5 of the Scheme, it would be seen that there is complete exclusion of all other persons holding stage carriage permits on the proposed route as well as those holding stage carriage permits on the routes overlapping completely or partially with the proposed route. Likewise, E clause 5, dealing with number of trips to be performed on each route by State Transport Undertaking to the exclusion of other persons, provides for complete exclusion of others holding stage carriage permits on the overlapping routes as well. The only exception has been made with respect to the five categories mentioned in the note to the Scheme.

F

The object of the Scheme appears to be to nationalise the entire service. Through nationalisation of the service effort is to provide better service to the commuters at cheaper cost. One of the exceptions to the Scheme is for existing town services operating on the notified routes. The reason for which appears to be that the existing town services need not be disturbed so that the G commuters do not suffer.

The question for consideration is, whether mofussil service will cover town services operating on notified routes? A combined reading of clauses 3, 4, and 5 of the Scheme reproduced hereinbefore shows that the Scheme excludes all private operators. These clauses provide for complete exclusion H

of all other persons holding stage carriage permits. There is no scope for any doubt. All private operators including those operating on town service routes are excluded, subject, however, to the exceptions. Looking at the issue from a different angle, it will be seen that if the existing town services operating on the notified routes were not to be affected by the Scheme, there was no need for the exception. This also answers the argument that since town service has not been mentioned in clause 3 of the Scheme, the town service has been left free. Clauses 3, 4 and 5 have to be read together to find out the real purport of the Scheme.

Next it was contended on behalf of respondent No. 3 that the second exception covers all town services and should not be confined to existing services. This means fresh applicants for town service routes should be given permits. In our view this submission is not tenable in view of clear wordings of the exception. The exception refers to existing town services operating on notified routes. The words 'existing' and 'operating' have to be given their due meaning. These words make it clear that the exception applies to only those who were already operating the service and not to future applicants like respondent No. 3. To illustrate, reference may be made to exception No. 2 contained in the Scheme which was subject matter of *APSRTC* v. *State Transport Appellate Tribunal and Ors.,* [1998] 7 SCC 353 . There the exception is for "the holders of stage carriage permits in respect of town services." Expression "holders of stage carriage permits" has a wider connotation. Even future applicants can be said to be holders of permits and thus eligible for grant of permits. In contrast the exception to the Scheme in the present case refers to existing town services operators only. In *C. Kasturi and Ors.* v. *Secretary, Regional Transport Authority and Anr.,* [1996] 8 SCC 314 the exception runs as under :

"1. .....

2. The holders of the existing stage carriage permits in respect of town service routes.

3. The holders of the future stage carriage permits in respect of town service routes having an over-lapping of not more than 8 Kms on the notified routes.

4. .....

5. ....."

A Thus the exception clearly spells out that existing as well as future operators will be eligible for permits. By referring to the language used in different schemes what we want to show is that the framers of the schemes are fully aware of what they want and they specify clearly whatever is intended in a particular Scheme. Wherever they want to include future applicants, they say so. The exceptions are worded accordingly. In the present case, the B exception applies only in case of existing operators on town services. Thus, we find no merit in the contention of respondent No. 3 that he is entitled to a permit by virtue of the exception No. 2 contained in the relevant Scheme. This also answers the argument that the Scheme is lacking in clarity.

C Mr. M.N. Rao, learned senior counsel appearing for the future applicants for town service routes submitted that if future applicants are to be excluded, 1998 (7) SCC 353 [*Andhra Pradesh S.R.T.C.* v. *State Transport Appellate Tribunal and Ors.*,] has to be overruled. In our view, this argument is totally misconceived. Firstly, we have already referred to the said judgment which in our view is no authority for the proposition that future applicants are not D to be barred. Secondly, we feel that everything depends on the language of the Scheme in a given case. We have already referred to provisions in different Schemes in order to illustrate the point. The language of the Scheme including exception No. 2 to the Scheme in the present case is very clear and does not admit any doubt.

E Lastly, it was submitted by Mr. M.N.Rao, learned senior counsel that if future applicants are excluded, town services will suffer resulting in inconvenience to the public. This argument is wholly untenable. It is for the State Government to consider what is suitable for public service. The State Government has the power to *modify* a Scheme in case of need. After all the F Schemes are intended for the benefit of the public and if any step is required to be taken for the purpose, the State Government can always do so by *modifying* the Scheme. The Act permits modification of a Scheme.

The Full Bench of the High Court noted in its impugned judgment that the Regional Transport Authority's reason for rejection of applications for G permits by private operators was that the route applied for by them overlaps the notified mofussil route which was meant for the State Transport Corporation as per the Scheme approved by the Government. The Full Bench also noted that a Division Bench of the same Court in W.A.No. 56 of 1992 had vide judgment dated 14th October, 1992 taken the view that mofussil service includes town service and that merely because town service route is not H

mentioned in the notified public scheme, that is not a ground to grant a permit for town service route. Another Division Bench of the same High Court had in *Rajappa Kawati* v. *G.Hanumantha Rao and Anr.* taken a contrary view according to which permits could be issued for town service routes even when the scheme nationalised the entire mofussil service and town service route overlapped with the mofussil service. It was on account of this divergence of opinion of the Division Benches of the High Court that the reference had been made to the Full Bench. The question for consideration before the Full Bench was, when prohibition had been imposed in the Scheme approved by the Government as per which private operators of stage carriages were completely excluded from the mofussil service, what would be the fate of applicants for permits for running on the town service? Rule 258 of the A.P. Motor Vehicles Rules, 1989 makes it clear that no route shall be determined as both town and mofussil service route. The words "mofussil service" suggest that the service covers a long distance having several stages (points) on the route. Long routes are divided into various stages for purposes of fixing fares from one stage to the next stage and the carriages which run on the routes for hire are called stage carriages. A route or a service may have several stages. Each stage will be the distance on the route from the preceding stage to the next stage. The stages are fixed in order to fix the fare for convenience of the passengers from the preceding point to the next point. Passengers have to pay fare only for the particular distance travelled by them and not for the entire route. Town service, on the other hand, as the words suggest, is normally a shorter route since it operates within the town itself.

One of the reasons which weighed with the Full Bench in the impugned judgment is that if the Scheme was to cover both mofussil service and town service it could have been stated so in the Scheme itself in unmistakable terms. With due respect this reasoning does not appeal to us. There is no scope for thinking that the Scheme does not say what it is intended to say. We must not overlook the language used against clauses 4 and 5 of the Scheme which provide for complete exclusion of all other persons holding stage carriage permits on the proposed route and on the overlapping routes except for the exceptions contained to the Scheme itself. There is yet another reason which militates against the view of the Full Bench on the point. A reference to the language of the exception would show that only existing town services operating on the notified routes have been permitted. In some of the other Schemes to which reference has been made in this judgment for purpose of illustration it will be seen that wherever the scope of the exception was to be widened so as to cover more categories of operators, it has been

A specifically provided for. In one of the Schemes the holders of future stage carriage permits in respect of town service routes have been allowed under the exception while in another case instead of existing town services, the words used are 'holders of permits'. Holders of permits can include those who happen to hold permits in future. It is in the scheme in the present case that exception No. 2 has been worded restrictively so as to cover only existing B town services operating on the notified routes. Thus we are unable to accept the conclusion of the Full Bench contained in the impugned judgment that the town services operating on the route, even though overlapping with mofussils services, are entitled to permit under the Scheme which is subject matter of the present appeal.

C

Reliance placed by the Full Bench in the impugned judgment on *Achyut Shivram Gokhale* v. *Regional Transport Officer and Ors.*, [1988] Suppl. SCC 696 in support of the observation that a scheme cannot be given a wider application than intended to by its maker does not appear to be correct so far as facts of this case are concerned. In the cited case this Court was considering D the grant of special permits on routes covered under notified schemes. It was noted by this Court that special permit is meant for special occasions like marriage parties or pilgrimage and the State authorities had the power to issue such permits even when the routes were otherwise notified under Schemes. This judgment cannot be said to an authority for the proposition E suggested in the impugned judgment that "a scheme, although has to be read in the context of Section 104 of the Act, but the same cannot be given a wider application than intended by the maker thereof." The permits sought for by the private operators in the present case cannot be equated with special permits envisaged under Section 88 (8) of the present Act which is equivalent of Section 63 (6) of the old Act. The object of granting special permits is F totally different. Special permits are meant to cater to special needs on special occasions like marriage parties, pilgrimage etc.

The impugned Full Bench decision further draws on the principle of purposive interpretation for upholding the view that permits can be granted for town service even if mofussil service is nationalized. For invoking the G principle of purposive interpretation the Bench felt that there was some ambiguity in the scheme or something was not clear. We have carefully gone through the scheme which is subject matter of the present appeals and we do not find any ambiguity or lack of clarity in the Scheme so as to invoke the principle of purposive interpretation.

H

For all these reasons we are unable to agree with the view taken by the Full Bench in the impugned judgment. In our view, under exception 2 contained in the Note appended to the Scheme, subject matter of the present appeals, permits can be issued only to existing town services operating on the notified routes. This means only existing operators on the notified routes are eligible for permits. Fresh applicants or future applicants are totally ineligible for getting permits for town services operating on notified routes. These appeals are accordingly allowed. The impugned judgment of the Full Bench of the High Court is set aside. In the facts and circumstances of the case there will be no order as to costs.

Hearing of this matter was confined to the legal issue referred to a Bench of five Judges as per the order of Reference dated 7th August, 2002. Through the above judgment we have answered the Reference. Let the remaining cases be placed before an appropriate Bench for final disposal.

R.P. Reference answered.