

Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992

TAMILNADU

India

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Act 41 of 1992

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Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992(Tamil Nadu Act 41 of 1992)Statement of Objects and Reasons - Tamil Nadu Motor Vehicles (Special provisions) Ad, 1992 (Tamil Nadu Act 41 of 1992). - While disposing of a Civil Appeal No. 1758 of 1986, relating to route Madurai to Kumili, the Supreme Court has held that the respondent in the above case (private operator) is not entitled to operate his stage carriage on the notified route or a portion thereof even though he may have been granted variation of his permit to operate on the sector of the notified route. The Supreme Court has also held that on the entire notified route between Madurai and Kumili or any part thereof, apart from the State Transport Undertaking no person other than those mentioned in Annexure II to the approved scheme can operate a stage carriage service.2. The policy of the Government is to nationalise the bus service operated by the private operators on end to end route and to allow them to operate on sector of the route. In view of the judgment of the Supreme Court referred to above, there is a possibility of rejecting the applications by the private operators for grant of renewals and variations in respect of their stage carriages which they are operating on notified routes and on routes covered by draft schemes.3. It has, therefore, been decided to allow the existing small bus operators to ply their stage carriages on any portion of the area or route covered by the draft schemes or the approved schemes and also to provide for the variation of the conditions of permit. It has also been decided that the existing small bus operators who are operating buses on the sectors of the notified route and on the routes covered by draft schemes to continue their operation. Otherwise, they will have to stop the buses which will affect the travelling public, as the State Transport Undertakings cannot introduce so many number of buses in a short notice to replace them.4. It has, therefore, been decided to undertake legislation so as to make the existing small bus operators to continue to operate their buses on the notified routes and on the routes covered by draft schemes.5. The Bill seeks to give effect to the above decisions.Published in Part IV - Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 27th April 1992.Received the assent of the President on the 31st July 1992 and published in Part IV - Section 2 of the Tamil Nadu Government of Gazette Extraordinary dated 31st July 1992.An Act to make certain special provisions in respect of permits for stage carriages under the Motor Vehicles Act, 1988 and in

relation to the schemes and routes notified under Chapter VI of that Act and to provide for matters connected therewith. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-third Year of the Republic of India as follows : -

1. Short title, extent, commencement and application.

(1) This Act may be called the Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992. (2) It extends to the whole of the State of Tamil Nadu. (3) The provisions of this Act (except sections 6 and 7) shall 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: Provided that the provisions of this Act so far as they relate to section 6, shall be deemed to have continued in force on and from the 1st July 1990. (4) It shall apply only in relation to draft schemes, approved schemes and notified routes.

2. Definition.

- In this Act, unless the context otherwise requires, - (a) "approved scheme" means a scheme approved under section 100 of the Motor Vehicles Act; (b) "draft scheme" means a scheme published under section 99 of the Motor Vehicles Act; (c) "Motor Vehicles Act" means the Motor Vehicles Act, 1988 (Central Act 59 of 1988); (d) the expression "notified route" shall have the same meaning as in section 100 of the Motor Vehicles Act; (e) words and expressions used herein and not defined, but defined in the Motor Vehicles Act shall have the meanings, respectively, assigned to them in that Act.

3. Grant of permit under certain circumstances.

(1) Notwithstanding anything contained in a draft scheme or an approved scheme, the Regional Transport Authority may, on an application made in accordance with the rules made in this behalf, grant a permit or renew a permit to a small operator to ply his stage carriage on the entire route covered by the draft scheme or the approved scheme or on such portion of the route covered by the draft scheme or approved scheme as may be specified and for such period and subject to such terms and conditions which may be in respect of matters specified in sub-section (2) of section 72 of the Motor Vehicles Act or in respect of any other matter as it thinks fit. Explanation. - For the purposes of this sub-section and section 6, "small operator" means any stage carriage operator holding on the date of the commencement of this Act or on any date subsequent to such date of commencement, five or less stage carriage permits notwithstanding that all or any stage carriage permits had expired after such date of commencement: Provided that in computing the number of stage carriage permits for the purposes of this sub-section - (i) the number of permits in respect of reserve vehicles kept by the stage carriage operator to maintain the service; or (ii) the number of temporary permits granted under clause (a), clause (b) or clause (c) of sub-section (1) of section 87 of the Motor Vehicles Act, shall be excluded. (2) Notwithstanding anything contained in a draft scheme or an approved scheme, the Regional Transport Authority may, on an application made in accordance with the rules made in this behalf, vary the conditions of a permit for a stage carriage so as to enable the applicant to operate on the entire route or any portion of the route covered by such draft scheme or an approved

scheme.(3)For the period during which the permit referred to under sub-section (1) or sub-section (2) is in force, the draft scheme or the approved scheme relating to the entire route or portion of the route referred to in the said sub-sections shall be deemed to have been modified to the extent specified in the said subsections.(4)Notwithstanding anything contained in Chapter VI including section 98 of the Motor Vehicles Act, the provisions of Chapter V of that Act and the rules made thereunder shall, so far as may be, apply in relation to the grant, renewal or variation of permit under this section as they apply in relation to the grant, renewal or variation of permit under the said Chapter V.

4. Existing permits to be valid.

- Notwithstanding anything contained in a draft scheme or an approved scheme or in section 3, all permits and temporary permits granted, renewed or varied under the Motor Vehicles Act or under the said section 3 authorising the use of stage carriages on the entire route or any portion of the route covered by such draft scheme or an approved scheme, shall be valid for the period for which such permits were granted, renewed or varied.

5. Act to override Chapters V and VI of Motor Vehicles Act.

- The provisions of 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.

6. Renewal or variation of permits.

(1)Notwithstanding anything contained in the Motor Vehicles Act or in an approved scheme, the Regional Transport Authority may, on an application made in accordance with the rules made in this behalf, renew the permit to a small operator to ply his stage carriage on the entire route covered by the approved scheme or on such portion of the route covered by the approved scheme and for such period and subject to such terms and conditions which may be in respect of matters specified in sub-section (2) of section 72 of the Motor Vehicles Act or in respect of any other matters as it thinks fit.(2)Notwithstanding anything contained in the Motor Vehicles Act or in an approved scheme, the Regional Transport Authority may, on an application made by the small operator in accordance with the rules made in this behalf and subject to such conditions as may be prescribed, vary the conditions of a permit for a stage carriage so as to enable the applicant to operate on the entire route or any portion of the route covered by such approved scheme.(3)Notwithstanding anything contained in Chapter VI including section 98 of the Motor Vehicles Act, the provisions of Chapter V of that Act, and the rules made thereunder shall, so far as may be, apply in relation to the renewal or variation of permit under this section as they apply in relation to the renewal or variation of permit under the said Chapter V.(4)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.

7. Pending applications, and appeals for grant of new permits to abate.

- Notwithstanding anything contained in any law for the time being in force, every application for grant of new permit on a notified route and all appeals arising therefrom or relating thereto, made or preferred before the date of publication of this Act in the Tamil Nadu Government Gazette, and pending before any Court with any office authority or Tribunal constituted under the Motor Vehicles Act, on the said date shall abate.

8. Power to make rules.

(1)The State Government may make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for, -(a)the form in which, the time within which and the manner in which an application under section 3 may be made;(b)the fees to be paid in respect of an application under section 3;(c)any other matter which may be prescribed.(3)All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.(4)Every rule made under this Act, shall, as soon as possible after it is made, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or the Assembly decides that the rule should not be made, the rule shall, thereafter, have effect, only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

9. Construction of reference to Motor Vehicles Act, 1939.

- Any reference in this Act to any of the provisions or any Chapter of the Motor Vehicles Act shall, during the period commencing from the 4th day of June 1976 and ending with the 30th day of June 1989, be construed as reference to the corresponding provisions or Chapter of the Motor Vehicles Act, 1939 (Central Act IV of 1939).

10. Validation.

- Notwithstanding anything contained in Chapter V or VI including section 98 of the Motor Vehicles Act, all proceedings taken for the grant of, and 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.

11. Saving.

- Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force and nothing contained herein shall exempt any person from any proceeding by way of investigation or otherwise which might, apart from this Act, be instituted against him.