

Krishna Rao, J.,
Date: 1-3-1972

W. P. No. 136 of 71.

S. K. Agarwal, Manager M/s. Transport Corporation
of India (P) Ltd., Secunderabad ... Petitioner
Vs.

The Asst. Inspector of Labour, 14th Circle, Govt. of A.P.
Labour Department, Hyderabad and others ... Respondents

*Motor Transport Workers Act (Central) 1961—Sections 1(4), 2(9) and 37—
Applicability of the Act to the transport undertakings – whether excludes any State
enactments – A. P. Shops and Establishments Act, 1966—Whether applies to the
persons working in transport undertakings.*

The writ of prohibition was filed for quashing the criminal proceedings instituted by the 1st respondent on the ground that the petitioner had not registered himself as per the provisions of A. P. Shops and Establishments Act of 1966. The petitioner contended that he is not covered by the State Act and that he is governed by the Motor Transport Workers Act, (Central Act of 1961) and that the criminal proceeding were illegal and without jurisdiction. The Court, making the 'Rule Nisi' absolute,

HOLD:— The argument on behalf of the petitioner is that in matters of legislation relating to subjects in the concurrent list, the Central Act occupies the field of legislation. Any enactment passed by the State Legislature in so far as it is inconsistent with the Central Act is inoperative. The Central Act was intended to provide for the welfare of the Motor Transport Workers and to regulate the conditions of their work. Sec. 1 (4) makes the Act applicable to every motor transport undertaking employing five or more motor transport workers. Sec. 2(g) defines "Motor transport undertaking" as a motor transport undertaking engaged in carrying passengers or goods or both on the road for hire or reward, and includes a private carrier. It is common ground that the petitioner company comes within the definition of a motor transport undertaking. It follows, therefore, that the Central Act is applicable to the petitioner, and once the Central Act is applicable it excludes the operation of the State enactment. Sec. 37 of the Central Act provides that the provisions of the Central Act, shall prevail where there is an inconsistency between the Central Act and any other law. The subject under consideration is the registration of the undertaking under sec. 3 of the Central Act, according to which every employer of a motor transport undertaking shall have the undertaking registered under this Act. Hence, sec. 3 of the A. P. Shops and Establishments Act, which provides that every employer of an establishment shall register the establishment by sending a return, does not come into operation.

A.I.R. 1967 Kerala 225; 1970 (2) F. & L Reports 64 ... followed

A. Krishna Murthy ... for petitioner,

P. Rama Rao for 3rd Govt. Pleader ... for respondent.

A. S. R.

WRIT PETITION ALLOWED.