Shiv Chand Amolak Chand vs Regional Transport Authority & Anr on 7 October, 1983

Equivalent citations: 1984 AIR, 9 1984 SCR (1) 288, AIR 1984 SUPREME COURT 9, 1984 UJ (SC) 111, (1984) 1 ACC 95, (1983) 96 MAD LW 157, (1984) 1 COMLJ 214, (1984) JAB LJ 1, (1984) 1 TAC 130, 1983 (4) SCC 433

Author: P.N. Bhagwati

Bench: P.N. Bhagwati, R.B. Misra

PETITIONER:
SHIV CHAND AMOLAK CHAND

Vs.

RESPONDENT:
REGIONAL TRANSPORT AUTHORITY & ANR.

DATE OF JUDGMENT07/10/1983

BENCH:
BHAGWATI, P.N.
BENCH:
BHAGWATI, P.N.
MISRA, R.B. (J)

CITATION:
1984 AIR 9 1984 SCR (1) 288
1983 SCC (4) 433 1983 SCALE (2)611
CITATOR INFO :
R 1984 SC 790 (16)
RF 1986 SC1980 (18,19,27)

ACT:
Motor Vehicles Act, 1939-Section 47(3) and 57(8) scope of-Whether Section 47(3) of the Act will be applicable when an application is made by a holder of a permit for extension of the route specified in the permit.

HEADNOTE:
The appellants held stage carriage permit granted to them by the Regional Transport Authority for the route Dabra-Karera Via Lodi Mato-extended upto Gwalior. On 22-6-1978, this route for which the permit was held by the appellants was modified, at their own request, by deleting

the portion of the route from Karera to Shivpuri. By a notification dated 4-8-1978 certain routes were nationalised under Scheme No. 11-M which came into effect from 25-9-1978, including deletion of the portion of the route from Shivpuri to Satanwara, with the result the permit of the appellants remained operative only for the remaining portion of the route namely, Satanwara-Gwalior Via Dabra. Effective from 19-12-1978, the State Government issued another Notification making modifications in the route schemes. Since this modification permitted plying of stage carriages by private operators even on a portion of a nationalised route connecting a district headquarters and not more than 20 KMs in length, the appellants made an application to the Regional Transport Authority-for restoring the portion of the route from Shivpuri to Satanwara on the ground that Shivpuri was a district headquarter and the portion of the route from Shivpuri and Satanwara was less than 20 KMs. The Regional Transport Authority rejected the said application on the ground that the Notification dated 18-12-1978 did not have any retrospective effect and therefore, the appellants were not entitled to automatic restoration of the portion of the route from Shivpuri to Satanwara.

The appellants thereupon filed an application in the prescribed form for extension of the route specified in their permit from Satanwara to Shivpuri. The said application was rejected after hearing the objections on two grounds, namely (i) the specific order of the State Govt. Curtailing the Satanwara-Shivpuri portion of the applicants' permit, while approving Scheme 11-M cannot be treated as having been amended by the General Amendment to the Scheme, and (ii) no extension of the route could be granted without following the procedure laid down in Section 47(3) of the Act. This order of the Regional Transport Authority was challenged by the appellants in a writ petition filed in the High Court of Madhya Pradesh. The High Court rejected the petition holding that by reason of the express language of Sub-Section (8) of Section 57, an application for extension of the route specified in an existing permit was tantamount to an application for grant of a new permit and hence
289
it was subject to the provisions of Section 47(3)and it could not be considered without following the procedure prescribed by Section 47(3). Hence the appeal after obtaining special leave of the Court.

Allowing the appeal, the Court

HELD: 1.1 The application made by the appellants for extension of the route specified in their permit from Satanwara to Shivpuri could be considered by the Regional Transport Authority without following the procedure prescribed under Sub-Section (3) of Section 47. [297 E-H]

1.2 However, under the terms of Sub-Section (8) of Section 57 this application of the appellants was liable to be treated as an application for the grant of a new permit,

since in effect and substance, it was an application for varying the condition of the permit by extending the route from Shivpuri to Satanwara. But the question is for what purpose ? [297 G-H]

2.1 Having regard to the several decisions of the Supreme Court and particularly the decision in Mohd. Ibrahim v. State Transport Appellate, Tribunal, Madras, [1971] 1 S.C.R. 474, the law is well settled that an application for grant of a new permit cannot be entertained by the Regional Transport Authority under Section 48, unless the limit of the number of stage-carriages for which permits may be granted is first determined under section 47(3). There are two independent steps required to be taken in connection with the grant of a permit, the first being the determination by the Regional Transport Authority under Section 47(3) of the number of stage-carriages for which permits may be granted and the second being that "thereafter applications for stage carriage permits can be entertained" and, therefore, it would mean that before an application for grant of a permit can be entertained by the Regional Transport Authority, there should be a determination under Section 47(3). Therefore, if an application for varying the condition of a permit by extension of the route specified in the permit were equated wholly with an application for grant of a new permit and the permit for the extended route were to be regarded as a new permit, the procedure prescribed in Section 47(3) would have to be followed and the number of stage carriages for which permits may be granted on the extended route would have to be determined before the application could be entertained by the Regional Transport Authority.

[298 C-E; 299 E-F]

2.2 But, the prescription in Sub Section (8) of Section 57 that an application for varying the condition of a permit by extension of the route shall be treated as an application for grant of a new permit has not the effect of equating of such an application with an application for grant of a new permit for all purposes so as to attract the applicability of Sub Section (3) of Section 47. [299 F-G]

3.1 Section 57 deals with the procedure in applying for and granting permits and Sub Sections (3) to (7) lays down the procedure which must be followed in considering and deciding, inter-alia, an application for grant of a stage-carriage permit. Sub Section (8) follows upon Sub Sections (3) to (7)

290

and is a part of the same Section which has a definite object and Scheme of providing the procedure for considering and granting an application and therefore, when it provides that an application to vary the conditions of a permit by the inclusion of new route or routes or new area or by increasing the number of trips above the specified maximum or by altering the route covered by it shall be treated as

an application for grant of a new stage carriage permit, it is obviously intended to incorporate and make applicable the procedure set out in the preceding Sub Sections (3) to (7) to such an application. The context in which Sub-Section (8) occurs and its juxtaposition with Sub Section (3) to (7) in Section 58 clearly indicate that what is sought to be made applicable to an application referred to in Sub Section (8) by treating it as an application for grant of a new permit is the procedure set out in Sub Section (3) to (7) of Section 58 and nothing more.

[299 G-H; 300 A-C]

3.2 The requirement spelt out in Sub Section (3) of Section 47 that the number of stage carriages for which permits may be granted on any particular route must be first determined before an application for grant of a stage carriage permit can be entertained by the Regional Transport Authority under Section 48, is obviously not a part of the procedure for considering an application for grant of a permit; it is a condition precedent before an application for grant of a permit can be considered and granted. This condition cannot be said to have been incorporated by reference under Sub Section (8) of Section 57. An application to vary the conditions of a permit as set out in Sub Section (8) of Section 57 is undoubtedly to be treated as an application for grant of a new permit, but that is only for the purpose of applying the procedure set out in Sub Sections (3) to (7) of Section 57 It is not an application for a new permit and if it is granted, the permit for the extended route does not become a new permit in the hands of the applicant. It is the same permit which now after granting of the application covers the extended route. [300 C-F]

3.3 Where a totally new route is sought to be included by an application to vary the conditions of a permit or the alteration of the route sought by such an application is of such a drastic character that it becomes substantially a new route, the application, though in form an application to vary the conditions of the permit, would in effect and substance, be an application for grant of a new permit and in such a case, a view may conceivably be taken with some degree of plausibility that the number of stage-carriages for which permits may be granted on such new route should first be determined under Sub Section (3) of Section 47 before the application to vary the conditions of the permit can be entertained. [300 F-H]

An applicant for a permit on a route which is not merely technically, but in truth and reality a different route, distinct from the original route, may not be permitted to defeat the provision, enacted in Sub Section (3) of Section 47, by labelling his application as one for varying the conditions of the permit and in such a case, the procedure set out in Section 47 (3) may have to be complied with before the Regional Transport Authority can consider

and grant the application. [300 H; 301 A]
291

But where an application merely seeks a short extension of the route specified in the permit, as in the present case, it would not be appropriate to say that it is an application for grant of a new permit, though technically the extended route may not be regarded as the same as the original route and where such is the case, it would not be necessary to comply with the procedure set out in Sub Section (3) of Section 47 of the Motor Vehicles Act. [301 B-C]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3787 of 1983.

Appeal by Special leave from the Judgment and Order dated the 19th March, 1971 of the Madhya Pradesh High Court in Misc. Petition No. 565 of 1980.

S.Q. Hassan, S.K. Mehta, P.N. Puri and M.K. Dua for the Appellant.

Rameshwar Nath for the Respondent.

The Judgment of the Court was delivered by BHAGWATI, J. This appeal by special leave raises a short but interesting question of law relating to the interpretation of certain provisions of the Motor Vehicles Act 1939 (hereinafter referred to as the Act). The question is whether section 47 sub-section (3) of the Act is attracted when an application is made by the holder of a permit for extension of the route for which the permit has been granted to him. In order to appreciate the question, it is necessary to state a few facts giving rise to the appeal.

The appellants are a partnership firm and at all material times they held a stage carriage permit granted to them by the Regional Transport Authority for the route Dabra-Karera via Lodi Mata extended upto Gwalior. It appears that on 22nd June 1978 this route for which the permit was held by the appellants was modified at the request of the appellants and the portion of the route from Karera to Shivpuri was deleted. Thereafter by a Notification dated 4th August 1978 certain routes were nationalised under Scheme No. 11-M which came into force with effect from 25th September 1978 and under clause 7 (b) of this Scheme, the portion of the route from Shivpuri to Satanwara was deleted and the permit of the appellants remained operative only for the remaining portion of the route, namely, Satanwara- Gwalior via Dabra. This state of affairs conti-

nued from 25th September 1978 until 18th December 1978 when the State Government by a Notification issued in exercise of the powers conferred under sub-section (2) of section 68 F of the Act made the following modifications in the various schemes approved by it under section 68 D sub-section (2), including Scheme No. 11-M:

> "Notwithstanding anything contained in this Scheme, the private operators may be permitted to ply stage carriages for hire or reward subject to the following conditions, namely:
>
> (1) Whereas the notified route connects a district Head-quarter, the portion thereof covered by the permit shall not exceed 20 kilometers and in other cases it shall not exceed 10 kilometers. (2) The private operators shall ply the stage carriage over the distance, other than the distance of the notified route, which shall not be less than twice the distance of the notified route covered by the permit;
>
> (3) The private operators shall not pick-up or set-

down passengers on the notified route.

Since this modification permitted plying of stage carriages by private operators even on portion of a nationalised route connecting a district head-quarter and not more than 20 kms. in length, the appellants made an application to the Regional Transport Authority for restoring the portion of the route from Shivpuri to Satanwara on the ground that Shivpuri was a district head-quarter and the portion of the route between Shivpuri and Satanwara was less than 20 kilometers. The Regional Transport Authority however took the view and in our opinion rightly, that the modification made by the State Government in Scheme No. 11-M under the Notification dated 18th December 1978 did not have any retrospective effect and the appellants were therefore not entitled to automatic restoration of the portion of the route from Shivpuri to Satanwara and in this view, the Regional Transport Authority rejected the application of the appellants.

The appellants thereupon filed a regular application in the prescribed form for extension of the route specified in their permit from Satanwara to Shivpuri. The application was published in the Gazette on 11th April 1980 and on coming to know about it, M.P. State Road Transport Corporation which is the 2nd respondent before us filed its objections against the grant of such extension. The application together with the objections was heard by the Regional Transport Authority and by an order dated 11th September 1980 the Regional Transport Authority rejected the application on two grounds. The first ground was that "the specific order of the State Government curtailing the Satanwara-Shivpuri portion of applicant's permit while approving Scheme No. 11-M cannot be treated as having been amended by the general amendment made to the scheme" and the other was that no extension of the route could be granted without following the procedure laid down in Section 47 sub-section (3) of the Act.

This order made by the Regional Transport Authority was challenged by the appellants in a writ petition filed in the High Court of Madhya Pradesh. There were two grounds of challenge urged on behalf of the appellants in support of the writ petition but we are concerned in this appeal with only one ground and hence we need not refer to the other ground and burden our judgment with a discussion of that ground. The ground which was seriously pressed before the High Court and repeated before us was that Section 47 sub- section (3) has no application where what is sought by an applicant is not the grant of a new permit on a specified route under section 48 but merely an

extension of the route under an existing permit under sub-section (8) of section 57 and the order made by the Regional Transport Authority rejecting the application of the appellants on the ground of non-compliance with sub-Section (3) of section 47 was therefore plainly wrong. The appellants sought to support this ground by relying on the decision of the Madhya Pradesh High Court in Dewan Chand v. State Transport Authority. But the learned Judge who heard the writ petition observed that the decision in Dewan Chand's case (supra) was contrary to the view taken by this Court in R. Obliswamy Naidu v. Regional State Transport Appellate Tribunal and Delhi Transport Undertaking v. Zamindar Motor Transport Company and held that by reason of the express language of sub- section (8) of section 57 an application for extension of the route specified in an existing permit was tantamount to an application for grant of a new permit and hence it was subject to the provisions of section 47 sub- section (3) and it could not be considered without following the procedure prescribed by sub-section (3) of section 47. The learned Judge on this view rejected the writ petition of the appellants. The appellants thereupon preferred the present appeal with special leave obtained from this Court.

The only question which arises for consideration in this appeal is as whether section 47 sub-section (3) is attracted when an application is made by a holder of a permit for extension of the route specified in the permit. The determination of this question depends upon a true interpretation of some of the relevant provisions of the Act. Section 2 is the definition section and clause (28A) of this section defines route to mean "a line of travel which specifies the high-way which may be traversed by a motor vehicle between one terminus and another". Chapter IV is the only material chapter for our purpose and as its heading shows, it deals with control of transport vehicles. Section 42 provides that no owner of a transport vehicle shall use or permit the use of the vehicle in any public place save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or the Commission authorising the use of the vehicle in that place in the manner in which the vehicle is being used. Section 43 confers certain powers on the State Government to issue directions to the State Transport Authority and section 44 provides for the constitution of State Transport Authority and Regional Transport Authorities for each State. Section 45 specifies the authority to which an application for a permit must be made and what particulars an application for a permit shall contain is prescribed in section 46. Section 47 sub-section (1) lays down what matters shall be taken into account by the Regional Transport Authority in considering an application for a stage carriage permit and various other provisions regarding reservation of certain percentage of stage carriage permits for Scheduled Castes and Scheduled Tribes and persons belonging to economically weaker sections of the community are made in sub-section (1A) to sub-section (1H) of section

47. Then follows sub-section (3) of section 47 which is in the following terms:

> "47 (3). A Regional Transport Authority may, having regard to the matters mentioned in sub-section (1) limit the number of stage carriages generally or of any specified type for which stage carriage permits may be granted in the region or in any specified area or on any specified route within the region."

Section 48 sub section (1) provides that, subject to the provisions of section 47, a Regional Transport Authority may, on an application made to it under section 46, grant a stage carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit, provided that no such permission shall be granted in respect of any route or area not specified in the application. Sub-section (3) of section 48 empowers the Regional Transport Authority while granting a stage carriage permit to attach to the permit any one or more of the conditions set out in that sub-section. One of the conditions which may be attached to the permit is that set out in clause (xxi) and it reads as follows:

> "48(xxi): that the Regional Transport Authority may, after giving notice of not less than one month-
>
> (a) vary the conditions of the permit;
>
> (b) attach to the permit further conditions;

Provided that the conditions specified in pursuance of clause (i) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometres, and any variation within such limits shall be made only after the Regional Transport Authority is satisfied that such variation will serve the public convenience and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof."

Sections 49 to 51 deal with an application for grant of contract carriage permit while sections 52 and 53 deal with an application for grant of private carrier's permit. We are not concerned with these provisions and hence we need not refer to them. So also we are not concerned with sections 54 to 56 which deal with application for public carrier's permit. Section 57 is however an important section and in its various provisions it lays down the procedure in applying for and granting permits. Sub-section (2) of section 57 prescribes the time within which an application for a stage carriage permit should be made and sub-Sections (3) to (7) lay down the procedure which must be followed by the Regional Transport Authority while dealing with an application for a stage carriage permit made before it. Sub- section (8) of section 57 is the material provision which calls for interpretation and it runs as follows:

> "57 (8): An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or, in, the case of a stage carriage permit, by increasing the (number of trips above the specified maximum or by altering the route covered by it) or in the case of a contract carriage permit or a public carrier's permit, by increasing the number of vehicles covered by the permit, shall be treated as an application for the grant of a new permit."

The argument of the respondents on these provisions was, and this argument found favour with the High Court, that an application for extension of the route specified in a permit is nothing but an application to vary the conditions of the permit by altering the route covered by it and it is therefore required by sub-section (8) of section 57 to be treated as an application for grant of a new permit

and hence, by reason of section 48, the grant of such an application for extension must be held to be subject to the provisions of section 47 sub-section (3) and no such extension can be granted without following the procedure prescribed by sub-section (3) of section 47. The validity of this argument was assailed before us on behalf of the appellants and it was contended that the fulfilment of the condition set out in sub-section (3) of section 47 was not a part of the procedure for consideration of an application for extension of the route specified in a permit and when sub-section (8) of section 57 provided that such an application shall be treated as an application for grant of a new permit, what was sought to be incorporated was merely the procedure set out in sub-section (3) to (7) of Section 57 and not pre-condition for consideration of such an application set out in sub-section (3) of Section (47). This contention, it was submitted on behalf of the appellants, was supported by Clause (xxi) of sub-section (3) of Section 48, because if the condition set out in that clause is attached to a permit, the Regional Transport Authority can suo motu extend the route specified in the permit upto a distance of 24 k.ms. for serving the public convenience, without being subject to the provisions of sub-section (3) of Section 47 and if the Regional Transport can do so suo motu without being required to follow the procedure of sub-section (3) of Section 47, there is no reason why the Regional Transport Authority should not be entitled to do so on an application for extension made by the holder of the permit. These were the rival arguments urged on behalf of the parties and we shall now proceed to consider them.

The permit held by the appellants in the present case, after the deletion of the portion of the route from Shivpuri to Satanwara was operative only for the remaining portion of the route namely, Satanwara-Gwalior via Dabra and in view of the modification made in Scheme No. 11-M by the notification issued by the State Government under section 68F sub-section (2) on 18th December, 1978, the appellants applied for extension of the route from Satanwara to Shivpuri, a distance less than 20 kilometers. The question it whether this application could be considered by the Regional Transport Authority without first determining under section 47 sub-section (3) the number of stage carriages for which permits may be granted for the route Shivpuri-Satanwara- Gwalior via Dabra, because if the extension applied for were granted, that would be the route for which the permit would be operative. Now, it is clear that it was a condition of the permit, after the deletion of the portion of the route from Shivpuri to Satanwara, that the appellants shall use their vehicle or vehicles only on the route Satanwara- Gwalior via Dabra. The application of the appellants for extension of this route by including the portion from Shivpuri to Satanwara was, therefore, in effect and substance, an application for varying this condition of the permit by extending the route and it clearly fell within the terms of sub-section (8) of section 57. So far there was no dispute between the parties, but at this point the agreement between the parties ended and a controversy arose as to what was the consequence and effect of the applicability of sub- section (8) of section 57 to this application made by the appellants. There can be little doubt that under terms of sub-section (8) of section 57, this application of the appellants was liable to be "treated as an application for the grant of a new permit". But the question is: for what purpose and which of the provisions of the Act could be said to be attracted to this application by reason of the requirement that it should be treated as an application for the grant a new permit. The argument of the respondents was that no application for grant of a new permit can be entertained by the Regional Transport Authority under section 48, unless the number of stage carriages for which permits may be granted for the particular route is first determined by the Regional Transport Authority under sub-section (3) of section 47, and,

therefore, the consequence of treating the application of the appellants for extension of the route as an application for grant of a new permit was that no extension could be granted by the Regional Transport Authority unless the requirement of section 47 sub-section (3) was first complied with and the number of stage carriages for which permits may be granted on the extended route was determined under that provision. But we do not think this argument is well-founded.

It is undoubtedly true that having regard to the several decisions of this Court and particularly, the decision in Mohd. Ibrahim v. State Transport Appellate Tribunal, Madras, the law must now be taken to be well- settled that an application for grant of a new permit cannot be entertained by the Regional Transport Authority under section 48, unless the limit of the number of stage carriages for which permits may be granted is first determined under section 47 sub-section (3). There are two independent steps required to be taken in connection with the grant of a permit, the first being the determination by the Regional Transport Authority under section 47 sub- section (3) of the number of stage carriages for which permits may be granted and the second being that "thereafter applications for stage carriage permits can be entertained"

> and, therefore, it would mean that before an application for grant of a permit can be entertained by the Regional Transport Authority, there would be a determination under section 47 subsection (3). Ray, J., as he then was speaking on behalf of the Court observed in Ibrahim's case (supra):
>
> "In our opinion, the provisions of the Act in regard to stage carriage permits have the following consequences. If the Regional Transport Authority were to appoint a date for the receipt of applications for the grant of stage carriage permits, the Regional Transport Authority should fix the limit of the number of permits which might be granted and then notify the same under section 57 (2) of the Act. If, on the other hand, applications were sent by persons suo motu for the grant of permit the applications would have to be published and the representations would have to be asked for. The proviso of section 57 (3) of the Act furnishes the answer that if the grant of any permit in accordance with the application would have the effect of increasing the number of permits beyond the limit fixed under section 47 (3) of the Act, the Regional Transport Authority might summarily refuse the application without following the procedure laid down in section 57 of the Act. In other cases, the proper stage for fixing the limit under section 47 (3) of the Act would be after applications are received and before the same would be published under section 57 (3) of the Act asking for representations. If however the Regional Transport Authority would not increase or modify the number of permits which already exist, the grant of an application would mean transgressing the limit fixed, and procedure laid down in section 57 (3) of the Act need not than be followed. On the other hand, if the Regional Transport Authority on receipt of applications would decide upon the limit of permits and the grant thereof would be with-in the limit prescribed then the procedure laid down in section 57 (3) of the Act would be followed."

There can, therefore, be no doubt that if an application for varying the condition of a permit by extension of the route specified in the permit were equated wholly with an application for grant of a new permit and the permit for the extended route were to be regarded as a new permit, the procedure prescribed in section 47 sub-section (3) would have to be followed and the number of stage carriages for which permits may be granted on the extended route would have to be determined before the application could be entertained by the Regional Transport Authority. But we do not think that the prescription in sub-section (8) of section 57 that an application for varying the condition of a permit by extension of the route shall be treated as an application for grant of a new permit has effect of equating such an application with an application for grant of a new permit for all purposes so as to attract the applicability of sub-section (3) of section 47. Section 57 deals with the procedure in applying for and granting permits and sub- section (3) to (7) lay down the procedure which must be followed in considering and deciding, inter alia, an application for grant of a stage carriage permit. Sub- section (8) follows upon sub-section (3) to (7) and is part of the same section which has a definite object and scheme of providing the procedure for considering and granting an application and therefore, when it provides that an application to vary the conditions of a permit by the inclusion of new route or routes or new area or by increasing the number of trips above the specified maximum or by altering the route covered by it shall be treated as an application for grant of a new stage carriage permit it is obviously intended to incorporate and make applicable the procedure set out in the preceding sub- section (3) to (7) to such an application. The context in which sub-section (8) occurs and its juxtaposition with sub- section (3) to (7) in section 58 clearly indicate that what is sought to be made applicable to an application referred to in sub-section (8) by treating it as an application for grant of a new permit, is the procedure set out in sub- section (3) to (7) of section 58 and nothing more. The requirement spelt out in sub-section (3) of section 47 that the number of stage carriages for which permits may be granted on any particular route must be first determined before an application for grant of a stage carriage permit can be entertained by the Regional Transport Authority under section 48, is obviously not a part of the procedure for considering an application for grant of a permit; it is a condition precedent before an application for grant of a permit can be considered and granted. This condition precedent cannot be said to have been incorporated by reference under sub-section (8) of section 57. An application to vary the conditions of a permit as set out is undoubtedly to be treated as an application for grant of a new permit, but that is only for the purpose of applying the procedure set out in sub-section (3) to (7) of that section. It is not an application for a new permit and if it is granted, the permit for the extended route does not become a new permit in the hands of the applicant. It is the same permit which now, after the granting of the application, covers the extended route. It may be possible to say that where a totally new route is sought to be included by an application to vary the conditions of a permit or the alteration of the route sought by such an application is of such a drastic character that it becomes substantially a new route, the application, though in form an application to vary the conditions of the permit, would in effect a and substance, be an application for grant of a new permit and in such a case, a view may conceivably be taken with some degree of plausibility that the number of stage carriages for which permits may be granted on such new route should first be determined under section 47 sub-section (3) before the application to vary the conditions of the permit can be entertained. An applicant for a permit on a route which is not merely technically, but in truth and reality a different route, distinct from the original route, may not be permitted to defeat the provision enacted in section 47 sub- section (3) by labelling his application as one for varying the

conditions of the permit and in such a case, the procedure set out in section 47 sub-section (3) may have to be complied with before the Regional Transport Authority can consider and grant the application. But where an application merely seeks a short extension of the route specified in the permit as in the present case, it would not be appropriate to say that it is an application for grant of a new permit, though technically the extended route may not be regarded as the same as the original route and where such is the case, it would not be necessary to comply with the procedure set out in sub-section (3) of Section 47.

We are, therefore, of the view that the High Court was in error in holding that the application made by the appellants for extension of the route specified in their permit from Satanwara to Shivpuri could not be considered by the Regional Transport Authority with out following the procedure prescribed under sub-section (3) of Section 47. We accordingly allow the appeal, set aside the judgment of the High Court as also the order made by the Regional Transport Authority and remit the case back to the Regional Transport Authority for considering the application of the appellants in accordance with law in the light of the observations contained in this judgment. There will be no order as to costs of the appeal.

S.R. Appeal allowed.