Mithilesh Garg Etc. Etc vs Union Of India And Ors. Etc. Etc on 22 November, 1991

Equivalent citations: 1992 AIR 443, 1991 SCR SUPL. (2) 428, AIR 1992 SUPREME COURT 443, 1992 (1) SCC 168, 1992 AIR SCW 41, 1991 ALL. L. J. 1067, (2006) 4 ACC 650, (1991) 4 JT 447 (SC), (1992) 1 KER LJ 247, (1992) 1 APLJ 37

Author: Kuldip Singh

Bench: Kuldip Singh, Rangnath Misra, M.H. Kania

PETITIONER:
MITHILESH GARG ETC. ETC.

Vs.

RESPONDENT:
UNION OF INDIA AND ORS. ETC. ETC.

DATE OF JUDGMENT22/11/1991

BENCH:
KULDIP SINGH (J)
BENCH:
KULDIP SINGH (J)
MISRA, RANGNATH (CJ)
KANIA, M.H.

CITATION:
1992 AIR 443 1991 SCR Supl. (2) 428
1992 SCC (1) 168 JT 1991 (4) 447
1991 SCALE (2)1088
CITATOR INFO :
D 1992 SC1888 (13)

ACT:
Motor Vehicles Act, 1988/1939:
Sections 71, 72,80,88/47,5 7---Grant of permits--Liberalised procedure envisaged in the new Act--New permits irrespective of number of persons already in the route--Rights of existing operators--Whether affected--Different criteria provided for inter-region, intra-region and inter-State permits--Whether violative of the Constitutional guarantee under Article 14--Factors to be taken into consideration by Regional Transport Authority before grant of permit.
Constitution of India, 1950:
Articles 14 and 19(1)(g)--Provisions of Motor Vehicles

Act, 1988 Liberalised procedure for issue of permits--Grant of more permits in the same route-Different criteria for inter-region, intra-region and interState permits--Whether violative of.

HEADNOTE:

These Writ Petitions filed before this Court challenged the liberalisation for private sector operations in the Road Transport field, under the Motor Vehicles Act, 1988. The petitioners were the existing operators on different routes.

On behalf of the petitioners, it was contended that the issue of more permits on the same route adversely affected their rights guaranteed under Articles 14 and 19 of the Constitution of India. It was further contended that though imposition of limit for grant of inter-State permits was permissible under Section 88(5) of the Act, it was not so in respect of intra-region permits and hence it is discriminatory; that in public interest the grant of intra-region permits should be limited.

Dismissing the Writ Petitions, this Court,

HELD: 1.1. Restricted licensing under the old Act led to the 429

concentration of business in the hands of few persons thereby giving rise to a kind of monopoly, adversely affecting the public interest. The apprehensions of the petitioners, that too many operators on a route are likely to affect adversely the interest of weaker section of the profession, is without any basis. The transport business is bound to be ironed-out ultimately by the rational of demand and supply. Cost of a vehicle being as it is the business requires huge investment. The intending operators are likely to be conscious of the economics underlying the profession. Only such number of vehicles would finally remain in operation on a particular route as are economically viable. In any case the transport system in a State is meant for the benefit and convenience of the public. The policy to grant permits liberally under the new Act is directed towards the said goal. [438 A-C].

1.2 The petitioners are in the full enjoyment of their fundamental right guaranteed to them under Article 19(1)(g) of the Constitution of India. There is no threat of any kind whatsoever from any authority to the enjoyment of their right to carry on the occupation of transport operators. There is no complaint of infringement of any of their statutory rights. More operators mean healthy competition and efficient transport system. Over-crowded buses, passengers standing in the aisle, persons clinging to the bus-doors and even sitting on the roof-top are some of the common sights in this country. More often one finds a bus which has noisy engine, old upholstery, uncomfortable seats and continuous emission of blacksmoke from the exhaust pipe. It is, there-

fore, necessary that there should be plenty of operators on every route to provide ample choice to the commuter-public to board the vehicle of their choice and patronise the operator who is providing the best service. Even otherwise the liberal policy is likely to help in the elimination of corruption and favouritism in the process of granting permits. [437 EH; 438-A].

Hans Raj Kehar & Ors. v. The State of U.P. and Ors., [1975] 2 SCR 916, followed.

Jasbhai Desai v. Roshan Kumar & Ors., [1976] 3 SCR 58; ,Saghir Ahmad v. The State of U.P. and Ors., [1955] 1 SCR 707, relied on.

Rameshwar Prasad & Ors. v. State of Uttar Pradesh & 0rs.[1983] 2 SCC 195, distinguished.

2. It is only the State which can impose reasonable restric-

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tions within the ambit of Article 19(6) of the Constitution of India. Section 47(3) and S7 of the old Act were some of the restrictions which were imposed by the State on the enjoyment of the right under Article (19)(1)(g) so far as the motor transport business was concerned. The said restrictions have been taken away and the said provisions have been repealed from the Statute Book. The new Act provides liberal policy for the grant of permits to those who intend to enter the motor transport business. The provisions of the Act are in conformity with Article 19(1)(g) of the Constitution of India. When the State has chosen not to impose any restriction under Article 19(6) of the Constitution of India in respect of motor transport business and has left the citizens to enjoy their right under Article 19(1)(g) there can be no cause for complaint. [440 B-D].

3. The three categories of permit-seekers in respect of interegion, intra-region and inter-State permits cannot be considered to be belonging to the same class. Different criteria have been provided under the Act for granting permits in respect of each of the categories. It is not the case that Section 80 brings about discrimination in the matter of grant of permits between applicants belonging to the same class. [442-B]

Hans Raj Kehar & Ors. v. The State of U.P. and Ors. [1975] 2 SCR 916, relied on.

4. Matters such as conditions of roads, social status of the applicants possibility of small operators being eliminated by big operators, conditions of hilly routes, fuel availability and pollution control are supposed to be within the comprehension of the transport authorities. The legislative policy under the Act cannot be challenged on these grounds. It is not disputed that the Regional Transport Authority has the power under the Act to refuse an application for grant of permit by giving reasons. It is for the authority to take into consideration all the relevant factors at the time of quasi-judicial consideration of the

applications for grant of permits. The statutory authorities under the Act are bound to keep a watch on the erroneous and illegal exercise of. power in granting permits under the liberalised policy. [444 D-F]

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition (Civil) No. 1345 of 1989.

(Under Article 32 of the Constitution of India).

WITH WRIT PETITION (Civil) 1110/89, 869/90, 740/90, 1100/90, 194/91, 195/91, 265/90, 327/91, 337/91, 334/91, 333/91, 330/91, 329/91, 322/91, 432/91, 420/91, 431/91, 573/91, 181/91, 316/91, 381/91, 390/91, 238/91, 686/91, 687/91 & 167/91) R.K. Garg, R.K.Jain, Govind Mukhoty, Ved Prakash Gupta, Suresh Chand Garg, Ms. Bharti Sharma, Rani Chhabra, B.S. Chauhan, Gaurav Jain, N.K. Goel, D.B. Vohra, Ms. Abha Jain, Vijay Hansaria, A.K. Tiwari and C.K. Ratnaparkhi for the Petitioners.

Yogeshwar Prasad, Mrs. S.Dixit, G.V.Rao, A.V.Rangam, B.Parthasarthy and Ms. A. Subhashini for the Respondents. The Judgment of the Court was delivered by KULDIP SINGH, J. The liberalization for private sector operations in the Road Transport field - under Section 80 and other provisions of The Motor Vehicles Act, 1988 - has been challenged in these bunch-petitions under Article 32 of the Constitution, filed by the existing-operators, primarily on the ground that they have been adversely affected in the exercise of their rights under Articles 14 and 19 of the Constitution of India.

It is necessary to notice the statutory provisions operating in the field of motor transport business prior to and after the coming into force of The Motor Vehicles Act, 1988 (hereinafter called 'the Act') The Motor Vehicles Act, 1939 (hereinafter called 'the old Act was enacted and en- forced with the object of having closer control to establish a coordinated system of transport. The subject of 'Mechani- cally Propelled Vehicles' being in List-Ill of the VIIth Schedule to the Constitution, various amendments were made from time to time by several State Legislatures either adding to or modifying the provisions of the old Act. Chap- ter IV of the old Act consisted of sections 42 to 68 provid- ing "control of transport vehicles". Sections 47 and 57, to the relevant-extent, are re-produced as under:-

> "47.Procedure of Regional Transport Authority in considering application for stage carnage permit- (1) A Regional Transport Authority shall, in considering an application for a stage carriage permit, have regard to the following matters, namely:-
>
> (a) the interest of the public generally;
>
> (b) the advantages to the public of the serv-

ice to be provided, including the saving of time likely to be effected thereby and any convenience arising from journeys not being broken;

(c) the adequacy of other passenger transport services operating or likely to operate in the near future, whether by road or other means, between the places to be served:

(d) the benefit to any particular locali-

ty or localities likely to be afforded by the service;

(e) the operation by the applicant of other transport services, including those in respect of which applications from him for permits are pending;

(f) the condition of the roads included in the proposed route or area, and shall also take into consideration any representations made by persons already pro- viding passenger transport facilities by any means along or near the proposed route or area, or by any association representing persons interested in the provision of road transport facilities recognized in this behalf by the State Government, or by any local authority or police authority within Whose jurisdiction any part of the proposed route or area lies; .....

(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.

57. Procedure in applying for and granting permits.- (1) An application for a contract carriage permit or a private carrier's permit may be made at any time.

(2) An application for a stage carriage permit or a public carrier's permit shall be made not less than six weeks before the date on which it is desired that the permit shall take effect, or, if the Regional Transport Authori- ty appoints dates for the receipt of such applications, on such dates.

(3) On receipt of an application for a stage carnage permit or a public carrier's permit, the Regional Transport Authority shall make the application available for inspection at the office of the Authority and shall publish the application or the sub' stance thereof in the prescribed manner to- gether with a notice of the date before which representation in connection therewith may be submitted and the date, not being less than thirty days from such publication, on which, and the time and place at which, the applica- tion and any representations received will be considered:

> Provided that, if the grant of any permit in accordance with the application or with modi- fications would have the effect of increasing the number of vehicles operating in the re- gion, or in any area or any route within the region, under the class Of permits to which the application relates, beyond the limit fixed in that behalf under sub-section (3) of Section 47 or sub-section (2) of Section 55, as the case may be,, the

Regional Transport Authority may summarily refuse the application without following the procedure laid down in this sub-section.

The old Act was repealed by the Act which came into force on July 1, 1989. The Statement of Objects and Reasons appended to the Act is re-produced as under:-

"The Motor Vehicles Act, 1939 (4 of 1939), consolidates and amends law relating to motor vehicleS. This has been amended several times to keep it up to date. The need was, however, felt that this Act should now inter alia, take into account also changes in the road trans- port technology, pattern of passenger and freight movements, development of the road network in the country and particularly the improved techniques in the motor vehicles management.

2. Various Committees like National Transport Policy Committee, National Police Commission, Road Safety Committee, Low Powered Two-wheel- ers Committee, as also the Law Commission have gone into different aspects of road transport. They have recommended updating, simplification and rationalisation of this law. Several Members of Parliament have also urged for comprehensive review of the Motor Vehicles Act, 1939, to make it relevant to the modern- day requirements.

3. A Working Group was, therefore, constitut- ed in January, 1984 to review all the provi- sions of the Motor Vehicles Act, 1939 and to submit draft proposals for a comprehensive legislation to replace the existing Act. This Working Group took into account the suggestion and recommendations earlier made by various bodies and institutions like Central Institute of Road Transport Automotive Research Association of India, and other transport organisations including the manufacturers and the general public. Besides, obtaining comments of State Governments on the recommendations of the Working Group, these were discussed in a specially convened meeting of Transport Minis- ters of all States and Union Territories. Some of the more important modifications so sug- gested related for taking care of-

(a).....

(b).....

(c) the greater flow of passenger and freight with the least impediments so that islands of isolation are not created leading to regional or local imbalances;

(d).....

(e) simplification of procedure and policy liberalization for private sector operations in the road transport field; and

(f).....

The proposed legislation has been prepared in the light of the above background. Some of the more important provisions of the Bill provide for the following matters, namely:-

(a) to

(f) .....

(g) liberalized schemes for grant of stage carriage permits on non-nationalized routes, all-india tourist permits and also national permits for goods carriages...

(h) to 1) .....

Chapter V of the Act-substitute for Chapter IV of the old Act consisting of Sections 66 to 96, provides for 'co- ntrol of transport vehicles'. Sections 71, 72 and 80, to the relevant extent, are reproduced as under:

> "71.Procedure of Regional Transport Authority in considering application for stage carriage permit. - (1) A Regional Transport Authority shall, while considering an application for a stage carriage permit, have regard to the objects of this Act:
>
> Provided that such permit for a route of fifty kilometers or less shall be granted only to an individual or a State transport undertaking.
>
> (2) A Regional Transport Authority shall refuse to grant a stage carnage permit if it appears from any time-table furnished that the provisions of this Act relating to the speed at which vehicles may be driven are likely to be contravened:
>
> Provided that before such refusal an opportunity shall be given to the applicant to amend the time-table so as to conform to the said provisions.
>
> (3)(a) The State Government shall, if so directed by the Central Government having regard to the number of vehicles, road condi-

tions and other relevant matters, by notifica- tion in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of stage car- riages generally or of any specified type, as may be fixed and specified in the notifica- tion, operating on city routes in towns with a population of not less than five lakhs.....

(4) A Regional Transport Authority shall not grant more than five stage carriage permits to any individual or more than ten stage carriage permits to any company (not being a State transport undertaking).

(5) In computing the number of permits to be granted under sub-section (4), the permits held by an applicant in the name of any other persons and the permits held by any company of which such

applicant is a director shall also be taken into account.

72. Grant of stage carriage permits - (1) Subject to the provisions of Section 71, a Regional Transport Authority may, on an appli- cation made to it under Section 70, 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 permit shall be granted in respect of any route or area not specified in the application.
>
> 80. Procedure in applying for and granting permits, - (1) An application for a permit of any kind may be made at any time.

(2) A Regional Transport Authority shall not ordinarily refuse to grant an application for permit of any kind made at any time under this Act:

> Provided that the Regional Transport Authority may summarily refuse the application if the grant of any permit in accordance with the application would have the effect of increasing the number of stage carriages as fixed and specified in a notifi- cation in the Official Gazette under clause
>
> (a) of sub-section (3) of section 71 or of contract carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of Section 74:
>
> Provided further that where a Regional Transport Authority refuses an application for the grant of a permit of any kind under this Act, it shall give to the applicant in writing its reasons for the refusal of the same and an opportunity of being heard in the matter." A comparative-reading of the provisions of the Act and the old Act make it clear that the procedure for grant of permits under the Act has been liberalised to such an extent that an intended operator can get a permit for asking irre- spective of the number of operators already in the field. Under Sections 57 read with Section 47(1) of the old Act an application for a stage carnage permit was to be published and kept for inspection in the office of the Regional Trans- port Authority so that the existing operators could file representations/objections against the said application. The application, along with objections, was required to be decided in a quasi-judicial manner, Section 47(3) of the old Act further permitted the imposition of limit on the grant of permits in any region, area or on a particular route. It is thus obvious that the main features of Chapter IV "con- trol of transport vehicles" under old Act were as under:
>
> 1. The applications for grant of permits were published and were made available in the office of the Regional Transport Authority so that the existing operators could file repre- sentations;

2. The applications for grant of permits along with the representations were to be decided in quasi judicial manner; and

3. The Regional Transport Authority was to decide the applications for grant of permits keeping in view the criteria laid down in section 47(1) and also keeping in view the limit fixed under Section 47(3) of the Act. An application for grant of permit beyond the limited number fixed under Section 47(3) was to be rejected summarily.

The Parliament in its wisdom has completely effaced the above features. The scheme envisaged under Section 47 and 57 of the old Act has been completely done away with by the Act. The right of existing-

operators to file objections and the provision to impose limit on the number of permits have been taken away. There is no similar provision to that of Section 47 and Section 57 under the Act. The Statement of Objects and Reasons of the Act shows that the purpose of bringing in the Act was to liberalize the grant of permits. Section 71(1) of the Act provides that while considering an application for a stage carriage permit the Regional Transport Authority shall have regard to the objects of the Act. Section 80(2), which is the harbinger of Liberalisation, provides that a Regional Transport Authority shall not ordinarily refuse to grant an application for permit of any kind made at any time under the Act. There is no provision under the Act like that of Section 47(3) of the old Act and as such no limit for the grant of permits can be fixed under the Act. There is, however, a provision under Section 71(3) (a) of the Act under which a limit can be fixed for the grant of permits in respect of the routes which are within a town having popula- tion of more than five lakhs.

The petitioners are existing stage-carnage operators on different routes. They hold permits granted by the Regional Transport Authorities concerned. Mithlesh Garg, petitioner in Civil Writ Petition No. 1345/89 has stated that he holds a stage carnage permit and plies his vehicles on the Meerut-Parikshitgarh-Hasifabad-Laliana and allied routes under the jurisdiction of the Regional Transport Authority, Meerut. According to him prior to the enforcement of the Act, 23 permit-holders were operating on the said route but thereafter under Section 80 of the Act the Regional Trans- port Authority, Meerut has issued 272 more permits in re- spect of the same route. Similar facts have been stated in the other writ petitions. As mentioned above the petitioners are permit holders and are existing operators. They are plying their vehicles on the routes assigned to them under the permits. They are in the full enjoyment of their funda- mental right guaranteed to them under Article 19(1)(g) of the Constitution of India. There is no threat of any kind whatsoever from any authority to the enjoyment of their right to carry on the occupation of transport operators. There is no complaint of infringement of any of their statu- tory rights. Their only effort is to stop the new operators from coming in the field as competitors. We see no justifi- cation in the petitioners' stand. More operators mean healthy-competition and efficient transport system. Over-crowded buses, passengers standing in the aisle, persons clinging to the bus-doors and even sitting on the roof-top are some of the common sights in this country. More often one finds a bus which has noisy engine, old upholstry, uncomfortable seats and continuous emission of black-smoke from the exhaust pipe. It is, therefore, necessary that there should be plenty of operators on every route to pro- vide ample choice to the commuter-public to board the vehi- cle of their choice and patronize

the operator who is providing the best service. Even otherwise the liberal policy is likely to help in the elimination of corruption and favouritism in the process of granting permits. Re- stricted licensing under the old Act led to the concentra- tion of business in the hands of few persons thereby giving rise to a kind of monopoly, adversely affecting the public interest. The apprehensions of the petitioners, that too many operators on a route are likely to affect adversely the interest of weaker section of the profession, is without any basis. The transport business is bound to be ironed-out ultimately by the rationale of demand and supply. Cost of a vehicle being as it is the business requires huge invest- ment. The intending operators are likely to be conscious of the economics underlying the profession. Only such number of vehicles would finally remain in operation on a particular route as are economically viable. In any case the transport system in a state is meant for the benefit and convenience of the public. The policy to grant permits Liberally under the Act is directed towards the said goal. The petitioners who are already in the business want to keep the fresh entrants out of it and as such eliminate the healthy compe- tition which is necessary to bring efficiency in the trade. This Court in Jasbhai Desai v. Roshan Kumar & Ors., [1976] 3 S.C.R. 58 posed the following questions for its determina- tion:-

> "Whether the proprietor of a cinema theater holding a licence for exhibiting cinematograph films, is entitled to invoke the certiorari jurisdiction ex debito justitiae to get a 'No-Objection Certificate', granted under Rule 6 of the Bombay Cinema Rules, 1954 (for short, the Rules) by the District Magistrate in favour of a rival in the trade, brought up and quashed on the ground that it suffers from a defect of jurisdiction, is the principal question that falls to be determined in this appeal by special leave."

Sarkaria, J. speaking for the Court an-

swered the question in the following words:-

> "In the light of the above discussion, it is demonstrably clear that the appellant has not been denied or deprived of a legal right. He has not sustained injury to any legally pro- tected interest. In fact the impugned order does not operate as a decision against him, much less does it wrongfully affect his title to something. He has not been subjected to a legal wrong. He has suffered no legal griev- ance. He has no legal peg for a justiciable claim to hang on..... While a Procrustean approach should be avoided, as a rule the Court should not interfere at the instance of 'stranger' unless there are exceptional circumstances involving a grave miscarriage of justice having an adverse impact on public interests. Assuming that the appellant is a 'stranger', and not a busybody, then also, there are no exceptional circum- stances in the present case which would justi- fy the issue of a writ of certiorari at his instance. On the contrary, the result of the exercise of these discretionary powers, in his favour, will, on balance, be against public policy. It will eliminate healthy competition in this business which is so essential to raise commercial morality; it will tend to prepetuate the appellant's monopoly of cinema business in the town; and above all, it will, in effect, seriously injure the fundamental rights of respondents 1 & 2, which they have

> under Article 19(1) (g) of the Constitution, to carry on trade or business subject to 'reasonable restrictions' imposed by law. The instant case fails well-nigh within the ratio of the this Court's decision in Rice and Flour Mills v. N.T. Gowda, wherein it was held that a rice mill-owner has no locus standi to challenge under Article 226, the setting up of a new rice-mill by another-even if such setting up be in contravention of S. 8(3) (c) of the Rice Milling Industry (Regulation) Act, 1958 because no right vested in such an appli- cant is infringed. For all the foregoing reasons, we are of opinion that the appellant had no locus standi to invoke this special jurisdiction under article 226 of the Consti- tution. Accordingly, we answer the question posed at the commencement of this judgment, in the negative."

We, therefore, see on justification for the petitioners to complain against the liberalised policy for grant of permits under the Act.

Article 19(1)(g) of the Constitution of India guarantees to all citizens the right to practice any profession, or to carry on any occupation, trade or business subject to rea- sonable restrictions imposed by the State under Article 19(6) of the Constitution of India. A Constitution Bench of this Court in Saghir Ahmad v. The State of U.P. and Others, [1955] 1 S.C.R. 707 held that the fundamental right under Article 19(1)(g) entitles, any member of the public to carry on the business of transporting passengers with the aid of the vehicles. Mukerjea, J. speaking for the Court observed as under:

> "Within the limits imposed by State regula- tions any member of the public can ply motor vehicles on a public road. To that extent he can also carry on the business of transporting passen-
>
> gers with the aid of the vehicles. It is to this carrying on of the trade or business that the guarantee in article 19(1)(g) is attracted and a citizen can legitimately complain if any legislation takes away or curtails that right any more than is permissible under clause (6) of that article."

It is thus a guaranteed fight of every citizen whether rich or poor to take up and carry on, if he so wishes, the motor transport business. It is only the State which can impose reasonable restrictions within the ambit of Article 19(6) of the Constitution of India. Section 47(3) and 57 of the old Act were some of the restrictions which were imposed by the State on the enjoyment of the fight under Article 19(1)(g) so far as the motor transport business was concerned. The said restrictions have been taken away and the provisions of Section 47(3) and 57 of the old Act have been repealed from the Statute Book. The Act provides liberal policy for the grant of permits to those who intend to enter the motor transport business. The provisions of the Act are in con- formity with Article 19(1)(g) of the Constitution of India. The petitioners are asking this Court to do what the Parliament has undone. When the State has chosen not to impose any restriction under Article 19(6) of the Constitution of india in respect of motor transport business and has left the citizens to enjoy their right under Article 19(1)(g) there can be no cause for complaint by the petitioners. On an earlier occasion this Court dealt with somewhat similar situation. The Uttar Pradesh Government

amended the old Act by the Motor Vehicle (U.P. Amendment) Act, 1972 and inserted Section 43A. The new Section 43-A apart from making certain changes in Section 47 of the old A Act also omitted sub-section (3) of Section 47 of the old Act) Section 43A provided that in the case of non nationalised routes, if the State Government was of the opinion that it was for the public interest to grant permits to all eligible applicants it might, by notification in the official gazette issue a direction accordingly. The necessary notification was issued with the result that the transport authorities were to proceed to grant permits as if sub-section (3) of section 47 was omitted and there was no limit for the grant of permits on any specified route within the region. Section 43-A and the consequent notification was challenged by the existing operators before the Allahabad High Court. The High Court dismissed the writ petitions. On appeal this Court in Hans Raj Kehar & Ors. v. The State of U.P. and Ors., [1975] 2 S.C,R. 916 dismissed the appeal. Khanna, J.speaking for the Court held as under;-

> "It hardly need much argument to show that the larger number of buses operating on different routes would be for the conven-
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> ience and benefit of the travelling public and as such would be in the public interest. Any measure which results in larger number of buses operating on various routes would neces- sarily eliminate or in any case minimise long hours of waiting at the bus stands. It would also relieve congestion and provide for quick and prompt transport service. Good transport service is one of the basic requirements of a progressive society. Prompt and quick trans- port service being a great boon for those who travel, any measure which provides for such an amenity is in the very nature of things in the public interest..... The conten- tion that the impugned notification is violative of the rights of the appellants under article 19(1)(f) or (g) of the Constitution(is equally devoid of force. There is nothing in the notification which prevents the appellants from acquiring, holding and disposing of their property or prevents them from practis- ing any profession or from carrying on any occupation, trade or business. The fact that some others have also been enabled to obtain permits for running buses cannot constitute a violation of the appellants' rights under the above two clauses of article 19 of the Consti- tution. The above provisions are not intended to grant a kind of monopoly to a few bus operators to the exclusion of other eligible persons. No right is guaranteed to any private party by article 19 of the Constitution of carrying on trade and business without compe- tition from other eligible persons. Clause (g) of article 19(1) gives a right to all citizens subject to article 19(6) to practise any profession or to carry on any occupation, trade or business. It is an enabling provision and does not confer a right on those already practising a profession or carrying on any occupation, trade or business to exclude and debar fresh eligible entrants from practising that profession or from carrying on that occupation, trade or business. The said provi- sion is not intended to make any profession, business or trade the exclusive preserve of a few persons. We, therefore, find no valid basis for holding that the impugned provisions are violative of article 19".

The identical situation has been created by Sections 71, 72 and 80 of the Act by omitting the provisions of Section 47(3) of the old Act. It has been made easier for any person to obtain a stage carriage permit under the Act. The attack of the petitioner on Section 80 on the ground of Article 19 has squarely been answered by this Court in Hans Raj Kehar's case (supra).

It has been contended in the writ petitions that differ- ent yard-sticks have been provided for interregion, intra- region and inter-State permits under the Act. According to the petitioners the imposition of limit for grant of inter-State permits is permissible under Section 88(5) of the Act whereas no such limit can be imposed in respect of intra-region permits. The contention is that the provisions are discriminatory and are violative of article 14 of the Constitution of India. We are not impressed by the argument. The three categories of permit- seekers cannot be considered to be belonging to the same class. Different criteria have been provided under the Act for granting permits in respect of each of the categories. It is nobody's case that Section 80 brings about discrimina- tion in the matter of grant of permits between applicants belonging to the same class. The argument on the ground of Article 14 is thus wholly untenable and is rejected. This question also came for consideration in Hans Raj Kehar's case (supra) and this Court rejected the contention in the following words:-

> "Argument has also been advanced that the deletion of Section 47(3) would have the effect of removing the limit on the number of permits for intra-region routes but that fact would not prevent the imposition of a limit for the number of permits for inter-region routes. This argument has been advanced in the context of the case of the appellants that the impugned provisions discriminate in the matter of issue of permits for intraregion routes and those for inter-region routes and as such are violative of article 14 of the Constitution. We are not impressed by this argument for we find no valid basis for the inference that if there is no limit on the number _of permits for intra-region routes,limit on the number of permits for interregional routes would' have to be imposed. The object of the impugned notification is to liberalise the issue of permits and we fail to see as to how such a liberal measure can have the effect of intro- ducing strictness or stringency in the matter of grant of permits for inter-region routes. Assuming that a different rule is applicable in the matter of inter-region routes, the differentiation is based upon reasonable classification. It is nobody's case that the impugned provision brings about discrimination in the matter of grant of permits between applicants belonging to the same class. The argument about the impugned provision being violative of article 14 is wholly trotenable."

The learned counsel for the writ petitioners, have relied upon a later decision of this Court in Rameshwar Prasad & Ors., v. State of Uttar Pradesh & Ors., [1983] 2 S.C.C. 195 and have contended that the decision of this Court in Hans Raj Kehars case (supra) no longer holds the field. There is no force in the contention. This Court on two occasions interpreted the old Act as amended by the State of Uttar Pradesh at the relevant times. The provisions of law which were interpreted in Hans Raj Kehar's case were entirely different than those which were before this Court in Rameshwar Prasad's ease. The legal position with which we are faced in these writ petitions is almost similar to that

which was considered by this Court in Hans Raj Kehar's case. What happened in the State of Uttar Pradesh was that after the U.P. Amendment of 1972 to the old Act, which was subject matter of interpretation before this Court in Hans Raj Kehars ease, it was found that certain anomalies had arisean in the working of the liberal policy of granting permits. With a view to remedy the situation the U.P. Legislature amended the old Act again by the U.P. Act 15 of 1976 permit- ting imposition of limit on the number of permits to be issued. In spite of the restrictions on grant of permits as provided in the U.P. Act 15 of 1976 the State Government issued notifications permitting grant of permits to all eligible applicants without any upper limit. This Court held in Ratneshwar Prasad's ease that the said notifications were inconsistent with the limitation as to the number of permits introduced by the U.P. Amending Act 1976 and as such were bad in law. Venkataramiah, J. (as he then was) speaking for the Court in Rameshwar Prasad's ease observed as under:

> "We may here state that any observations made in Hans Raj Kehar case would be inapplicable so far as these cases presently before us are concerned. In that case the court was con- cerned with sub-section (2) of Section 43-A of the Act as it stood then which was a provision enacted by the legislature. That sub-section provided that without prejudice to the gener- ality of the power contained in Section 43- A(1) of the Act where the State Government was of opinion that it was in public interest to grant stage carriage permits (except in re- spect of routes or areas for which schemes have been published under Section 68-C) or contract carriage permits or public carrier permits to all eligible applicants it may issue appropriate directions as stated there- in. That sub-section contained a clear legis- lative policy which considered that there could be no public prejudice if all eligible applicants were granted permits. Without saying anything more on the point, it may be slated that whatever this court may have observed while considering that provision would not apply now as there is a clear depar- ture made by the legislature from that policy when it enacted the new sub-section (2) of Section 43-A."

It is thus obvious that the reliance by the petitioners on the ratio and observations of this Court in Rameshwar Prasad's case is wholly mis-

placed. The Parliament has, under the Act, made a clear departure from the policy and has reverted to the position which was before this Court in Hans Raj Kehar's case. Relying on Rameshwar Prasad's case the petitioners contend that it is in 'public interest' to limit the grant of permits on intra-region routes and while fixing the limit various factors indicated by this Court in the said case are to be taken into consideration. We do not agree. The concept of public interest, in relation to motor transport business, as propounded by this Court in Rameshwar Prasad's case was only in the context of the old Act as amended by the U.P. Act. We are of the view that the Act having brought-in complete change in the policy of granting permits, the observations of this Court in Rameshwar Prasad's case are not relevant in the present context. The provisions of law for consideration before this Court in Hans Raj Kehar's case were almost similar to Section 80 of the Act. We are, there- fore, bound by the law laid down by the four-Judges Bench of this Court in Hans Raj Kehar's case.

The petitioners have further contended that the condi- tions of roads, social status of the applicants, possibility of small operators being eliminated by big operators, condi- tions of hilly routes, fuel availability and pollution control are some of the important factors which the Regional Transport Authority is bound to take into consideration while taking a decision on an application for grant of permit. These are the matters which are supposed to be within the comprehension of the transport authorities. The legislative policy under the Act cannot be challenged on these grounds. It is not disputed that the Regional Trans- port Authority has the power under the Act to refuse an application for grant of permit by giving reasons. It is for the authority to take into consideration all the relevant factors at the time of quasi-judicial consideration of the applications for grant of permits. The statutory authorities under the Act are bound to keep a watch on the erroneous and illegal exercise of power in granting permits under the liberalised policy.

We, therefore, see no force in any of the contentions raised by the petitioners and as such we dismiss the writ petitions. The parties are left to bear their own costs.

G.N. Petitions dis-
missed.