Makhan Lal vs State Of Uttar Pradesh And Ors. on 16 August, 1950

Equivalent citations: AIR1952ALL437, AIR 1952 ALLAHABAD 437

Author: V. Bhargava

Bench: V. Bhargava

JUDGMENT

Sapur, J.

1. The reliefs sought by the 12 applicants before us in these 12 applications are that this Court may be pleased to issue:

> (a) a writ in the nature of mandamus to the opposite parties directing them to accept, entertain, hear and determine the applications of the petitioners for the renewal of their permits according to such of the provisions of the Motor Vehicles Act as are valid and to issue the necessary quota of petrol for the continuance of their business of plying their, vehicles, (b) a writ in the nature of mandamus to the opposite parties 2, 3 and 4 directing them to withdraw the notices issued by them to the applicants on 21-6-1949 and on 25-11-1949, (c) a writ in the nature of mandamus to the opposite party 1 directing it not to introduce or ply on hire its Roadways on the Saharanpur-Hardwar route unless authorised by a valid law (d) a writ in the nature of mandamus to the opposite parties to properly constitute the Regional Transport Authority according to the valid provisions of the Motor Vehicles Act 1939, and (e) a writ in the nature of certiorari and such other suitable writ or writs, directions or orders as this Court may, in the interest of justice, deem necessary in the circumstances of the case to the opposite parties. There is a prayer for the award of costs also.

2. The facts which have given rise to these applications may be stated shortly The applicants are owners of motor buses I shall deal with their cases individually, but for the broad facts I shall rely upon the statement of facts as given by and agreed to by the parties in the affidavit filed in support of application No. 189 of 1950, namely, that of Makhan Lal. The applicants ply buses on the highways indicated in their affidavits.

The case of Makhan Lal is that he had his principal place of business in the Meerut Region. He entered the transport business in 1942 and started carrying passengers on hire by means of a stage carriage by employing motor vehicle no. USV 59.

This motor vehicle was, prior to his taking over the business in 1942, under the ownership of another proprietor who had been granted a permanent permit no 391 under the Motor Vehicles Act,1939. The motor vehicle USV 59 was later replaced by the applicant on 11-5-1950 by motor vehicle USA 1589. The permanent permit issued to his transferor was valid up to 1943 and it was renewed on an application made by the applicant to the Regional Transport Authority up to 1946. On the expiry of the above regular permit the applicant made an application for its renewal and enclosed with that application a non-judicial stamp of Rs. 5 Instead of granting a regular permit the Regional Transport Authority issued to him a temporary permit.

Subsequently on the expiry of the temporary permit which had been issued in lieu of renewal, temporary permits continued to be issued to him right up to the end of 1949. In the temporary permits issued to him in lieu of renewals, it is clearly stated that as a permanent permit no.391 was already held by the permit holder, no fee prescribed by the rules for granting temporary permits was being charged from the applicant.

3. On 21-6-1949 the applicant was served with a notice by the Secretary, Regional Transport Authority, meerut, This notice was to he following effect:

> "You are hereby informed that the secretary, U.P. Government Roadways, Dehra Dun, has informed that M.R.W. is going to take over the route of Saharanpur.
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> Hardwar with effect from 1-8-1949. You are therefore required to stop plying your vehicles with effect from the midnight of 31-7-1949."

4. Actually, however, the U.P.Government were not able to put any buses on the route at the time indicated in the notice with result that the applicant continued to ply his motor vehicle without any interference on the basis of temporary permits in lieu of renewal.

5. On 25-11-1949 a fresh notice no 381/1, dated 25-11-1949 was issued by the Secretary, Regional Transport Authority, Meerut, to the Yatra Transport, Co. Ltd., Saharanpur, which manages the operation of a number of motor vehicles of private operators on the route in question,including that of the applicant. The notice was to the following effect:

> "As desired by the Transport Commissioner, U.P. Lucknow, the Meerut Roadways will take over the Saharanpur-Hardwar route with effect from 1-12-1949.
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> consequently all the vehicles plying on this route will be displaced with effect from the midnight of 30-11-1949.
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> on the Saharanpur-Hardwar route. Three months notice in advance has already been served."

6. On receipt of this notice the applicant stopped plying his bus from 1-12-1949. Thereafter the applicant's case is that he and certain other private operators, made without any success successive

representations to the U.P.Government to issue necessary orders to allow them to start operating their vehicles from January 1950. In this state of things, the applicant applied in the middle of February 1950 for a renewal of his regular permit No. 391 issued to him in 1943. The application was however, returned to him by the Secretary, Regional Transport Authority, Meerut, directing him to apply, if he so desired, for a temporary permit fr the period of Kumbh Mela only. He was further directed to enclose with it a non-judicial stamp of Rs. 5 The applicant took advantage of the offer made by the Secretary, Regional Transport Authority, Meerut, to ply his bus and a temporary permit which was to be valid on the Saharanpur. Hardwar route up to 30-4-1950 was granted. On the 1st May the applicant stopped plying his bus with the expiry of the temporary permit granted to him. Immediately after he made an application to he proper Regional Transport Authority for the renewal of his permanent permit in the first week of May. The applicant's grievance is that up to this date that application has not been considered by the Regional Transport Authority and he had had no reply from that body. It is on these allegations that the applicant has come to this Court and sought its aid under Art. 226 of the Constitution for the enforcement of his rights.

7. The whole question of the law relating to transport business with particular reference to the right of bus owners to ply buses on the highways of this State camp up before a Full Bench of his Court, of which one of us was a member.

The Full Bench came to the conclusion that the bus owners who had been able to prove that they had applications for regular permits pending before the Regional Transport Authority had made out a case for a writ of mandamus to the Regional Transport Authority directing it to hear and determine in according with law applications dated 30-4-1949 and 18-4-1949 respectively made under Section 58 (2), Motor Vehicles Act, 1939, for the renewal of permits granted to the applicants in the aforesaid cases. They were allowed their costs. It may be mentioned that there were nearly 168 applications before the Full Bench. A number of other applicants were, however, dismissed without any order as to costs.

8. From a perusal of the judgements of the Full Bench, it appears that an undertaking was given by the learned Advocate General on behalf of the Regional Transport Authority that even if some of the applicants are found to have filed no applications till the date on which the application for a mandamus was made to the Court and they file applications in future, the opposite parties will consider those applications and pass orders in accordance with the provisions of the Motor Vehicles Act. It was principally in view of this undertaking that the majority of the Full Bench thought that it was unnecessary to issue any directions to the Regional Transport Authority in regard to the manner in which it should dispose of those applications.

9. The applicants before us were not applicants in the cases that were dealt with by the Full Bench order. It strikes me that the spirit, if not the letter, of the undertaking given by the learned Advocate General requires that the Regional Transport Authority should consider the applications in accordance with the law laid down by this Court, the observations made by the Full Bench in regard to the various provisions of the Motor Vehicles Act, 1939, and the rights of the parties.

10. I am constrained to say that I have come to the conclusion that the Regional Transport Authority has not been acting in a proper manner in regard to these applications. The judgment of the Full Bench was delivered on 11th May just before the Court closed for the long vacation. The undertaking by the Advocate General was given to this Court soon after the case started. By 1-5 1950 on which the third application for the renewal of a regular permit was made by the applicant before the Regional Transport Authority, the latter knew very well what it was required to do under the Motor Vehicles Act, 1939. The Regional Transport Authority had been acting until that time has a mere agent of Government. It had never occurred to that authority that the statute had vested it with certain autonomous powers and that it was its paramount duty to exorcise its discretion unfettered by extraneous considerations dictated to it by the Executive Government, in accordance with the law as laid down by the Motor Vehicles Act in granting or withholding permits. In the judgment which I delivered in the Full Bench I referred to the observations of Gentle C. J., and remarked that "it wag a dereliction of duty which had been imposed by the statute on the part of the Regional Transport Authority not to take into consideration matters which it was under a statutory obligation to take note of and allow itself to be guided by those matters which were quite irrelevant for the purpose of disposing of the applications."

The question whether Government was intending to introduce its Roadways or to nationalize the motor business was from the point of view of the requirements needed for the grant of a valid regular permits under the Motor Vehicles Act, 1939, an absolutely irrelevant issue. It is strange that it did not occur to tie Regional Transport Authority that statutory requirements and obligations cannot be disregarded at the behest of the Executive Government of the day. The Regional Transport Authority was the creation of a statute of the legislature and it is not permissible to it to act in granting or withholding permits otherwise than in accordance with the provisions relating to the grant of permits for motor vehicles. With the policy underlying nationalization this Court is not concerned. That policy raises questions of vast social and economic import which it may well be that the legislature reflecting the will of the people is peculiarly well-fitted to determine.

We have, therefore, nothing to do with the policy of nationalization or State monopoly in this case. What we have to see is whether there has or has not been a deliberate attempt on the part of the Regional Transport Authority to follow obstructionist or dilatory tactics. A few facts will disclose that that authority has not been discharging, in an independent manner, the obligations which the statute has cast upon it.

11. I come now to the facts which have made me come to entertain a strong feeling that the Regional Transport Authority continued to behave in a manner which cannot be regarded as fair to the applicant. Undeniably applications for issue of permanent permits were received by the Regional Transport Authority in the first week of May 1950. On 5-6-1950 a general meeting of the Regional Transport Authority was held. In the agenda of that meeting an item, viz., consideration of the applications for permits which had been made on 1st May was included. Strangely enough even though the Full Bench had expressed, in considered judgments running into over a hundred printed pages, in no unequivocal terms that the procedure adopted by the Regional Transport Authority was completely irregular, the matter was not considered important enough by the Regional Transport Authority which was intended to function as an independent body to be considered by it at that

meeting. What apparently happened was that the matter was relegated to the last place in the agenda. This is hardly a proper way for treating with respect the decisions of this Court. The meeting of 5th June was adjourned till 14th June and on that date the Regional Transport Authority came to the conclusion that it was its duty to give effect to the provisions of Section 57 (2), Motor Vehicles Act, 1939. It decided on that date to follow, without making any distinction between those applicants who were applying for fresh permits and those applicants who were applying for renewal of permits, the procedure laid down in Section 57 (2), Motor Vehicles Act, 1939. It was, therefore, decided at that meeting to invite applications for stage carriages and public carriers' permits by 15-7-1950. The Regional Transport Authority has in the affidavit which has been filed on its behalf stated that it has received nearly 4000 applications and that those applications are being sorted out and tabulated with a view to publish them in the Official Gazette as provided in Section 57(3), Motor Vehicles Act, 1939. I quote below both Section 57(2) and Section 57(3), Motor Vehicles Act, in order to make my criticism of the line taken by the Regional Transport Authority clear :

> "57(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 Authority appoints dates for the receipt of such applications, on such dates."
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> "57(3) On receipt of an application for a stage carriage 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 substance thereof in the prescribed manner together with a notice of the date before which representations 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 application and any representation received will be considered."

12. These two Sub-sections may be compared with Section 58(2) which is in the following terms :

> "A permit may be renewed on an application made and disposed of as if it were an application for a permit :
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> Provided that, other conditions being equal, an application for renewal shall be given preference over new applications for permits."

This comparison will disclose that there is a basic difference between the procedure to be followed in the case of new applicants and applicants who were applying for a renewal of their applications for regular permits. In the case of an applicant applying for the renewal of an old permit, an observance of the procedure laid down in Section 57 (2) is not necessary. As analysis of Section 57 (2) will show that it is divisible into two parts. The first part requires that an application for a stage carriage permit or a public carrier's permit should be made not less than six weeks before the date on which it is desired that the permit should take effect. The second part authorizes the Regional Transport Authority to appoint dates for the receipt of such applications. If dates are appointed, then applications must be made on such dates. It is obvious that in the case of an application for renewal

of an old permit appointment of dates for the receipt of such applications is not necessary. The old applicants must be presumed to know the dates on which their per nits are to expire and it is thus clear that the second part of Section 57 (2) has reference to applicants for new permits only. The Regional Transport Authority had been instructed by the Full Bench to follow in the case of applications for renewal of regular permits the procedure laid down in Section 58 (2) and it seems to have overlooked this direction altogether. It is here that the Regional Transport Authority went wrong. It was not necessary for the Regional Transport Authority to tie the applications of the applicants before us with the other 4000 applications received by it under Sub-section (2) of Section 57. It must be remembered that the applications which the Regional Transport Authority had to dispose of were applications which were pending in a way from 1946. There had been no disposal of the applications for regular permits in February 1950. The applications which were presented to the Regional Transport Authority were, in fact, returned by him without recording any decision. The third application of May 1950 was therefore, a continuation of the application made for a regular permit in 1946. The matter of the grant of regular permits, so far as these applicants are concerned, has been before the Regional Transport Authority for well over a period of three months. By linking up these applications with new applications for which dues were fixed by it, the Regional Transport Authority has followed what I am constrained to describe as dilatory tactics I am, therefore clear in my mind that the applicants have male out a case for the first part of relief (a).

13. As regards, relief (b), the position is that, according to the Full Bench, the notices dated the 2lst June and 25-11-1949 must be deemed to be invalid notice. The Full Bench, however, did not consider it necessary to grant any relief in regard to these notices and we do not think, therefore, that we would be justified in granting any relief at this stage regarding the second prayer. The notices being invalid, the applicants can disregard them. It is, however, incumbent on the Regional Transport Authority not to pay any attention to them but to dispose of the applications in accordance with the law laid down by the Full Bench.

14. We now come to relief (c). The Full Bench refrained from issuing a writ in the nature of mandamus to the opposite party 1 directing it not to introduce its Roadways on the routes in question unless authorised by a valid law and thereby create a virtual State monopoly. I see no reason to take any view in these cases (sic) from that taken by the Full Bench at that time.

15. So far as relief (d) is concerned, the position is that no facts have been supplied to us to show what the constitution of the Regional Transport Authority is. This relief has not, in fact, been seriously pressed before us.

16. So far as relief (e) is concerned, the view that I take is that this is not a fit case in which we can exercise the power of issuing a writ in the nature of certiorari. A writ in the nature of certiorari is issued to quash an administrative order is that class of cases where some quasi judicial tribunal has acted without jurisdiction or has done something contrary to the principles of natural justice. A writ of certiorari, according to Professor Diecy enables this Court to review particular Judicial (in the broadest sense) proceedings and prohibition similarly lies to restrain excess of jurisdiction by a Court or body acting judicially Diecy's Law of the Revised Constitution, Edn 9 by Wade, p. 522. Obviously the Regional Transport Authority has not passed any orders so far. By a writ in the nature

of certiorari, it cannot be directed to pass any particular order. In this case the successful applicants are, in my opinion, entitled to their costs. I propose to pass no order as to costs in the case of those applicants whose applications are dismissed.

17. Before I part with, this part of the case, I would like to draw the attention of the Regional Transport Authority to certain observations of the majority of the Full Bench in regard to some of the points which have been raised in this case. Malik C. J., observed that the Regional Transport Authorities are bound by the provisions of the Motor Vehicles Act and they must act in accordance with the provisions of that Act. He further held that:

> "Any reason which is not a valid reason under the provisions of the Motor Vehicles Act cannot be taken by them into consideration. What matters they must consider before issuing, or refusing to issue a permit are set out in the Motor Vehicles Act and the Rules made thereunder, and it is not necessary for me to attempt to reproduce them here."

Mootham and Wanchoo JJ., pointed out that:

> ''A consideration of the provisions of the Motor Vehicles Act makes it sufficiently clear, we think that the Provincial and Regional Transport Authorities are intended to be independent quasi-judicial bodies."
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> They further observed that:
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> "When the Motor Vehicles Act was passed, it does not appear to have been within the contemplation of the framers of the Act that the Government would enter the passenger transport-business."

They further observed that:

> "It appears to us that when the State engages in business or commerce such as is carried on by a private individual or corporation it must subject itself to the same obligations as are imposed on, and place itself in the same position as a private individual or corporation except in the matter of taxation. In our opinion, the State cannot, when it engages in business or commerce, deny equality before the law or the equal protection of the laws to other persons as against itself."

They further observed as follows :

> 'We think we should also sound a note of warning to the Regional Transport Authorities. Upon the evidence which has been adduced in the applications before us there can be no doubt that Regional Transport Authorities, constituted as they are at present, have shown themselves so he subservient to the wishes of the State Government and the ready instruments of the latter's policy. The story of the conduct

> of these authorities since October, 1946, in dealing with applications for stage carriage permits for buses on the routes referred to In the present applications shows, quite clearly we think, that they were actuated not by a desire to regulate passenger transport in the public interest but to keep the situation fluid."

18. It is further important to invite the attention of the Regional Transport Authority to some further observations of Mootham and Wanchoo JJ.:

> "The applicants have expressed a fear, which in the circumstances we cannot consider groundless that these authorities will discriminate against the applicants and use Sections 47 (c) and 48 (a), Motor Vehicles Act, in favour of the State Government. We do not presume that the Transport Authorities will act in this way. But if they do and should they so operate these sections as to oust all privately owned buses from the roads and thus give to the State a monopoly of the passenger bus traffic thereon, then they will be doing something which in our opinion is inconsistent with the right given to every citizen under Article 19(1)(g) of the Constitution to carry on any occupation, trade or business unless authority for their action can be found in some law passed for the purpose and valid under Article 19(6). The creation of a monopoly is not something for which, in our opinion, justification can be found in the terms of the Motor Vehicles Act, an Act which as we have pointed out, was not passed for the purpose of giving, the State any form of monopoly. If the Act is so misused, a question may arise whether these provisions which are fair on the face of them are not repugnant to Article 14 as well as Article 19(1)(g) of the Constitution."

19. I may be permitted to quote myself. I pointed out that-

> "The object of this section (Section 44 (2) Motor Vehicles. Act) was to ensure that the persons appointed shall be persons possessed of an independent mind not tied to the vested interests of transport business."

20. I pointed out that the refusal to renew permits was not within the contemplation of the Motor Vehicles Act and that the Act was not a measure intended to create either a State monopoly or nationalisation of the motor vehicular business on the highways. I remarked that-

"It strikes me that on a fair reading of this article (Article 14) the juristic principle that can be evolved is that, for certain purposes, the great juristic person is like any other juristic person and can claim when it enteres into any business no preference over others--natural or artificial."

I further pointed out that-

> "no equal protection of laws or equality before the law would be possible were the State buses exempted from permits and if distinctions in the matter of permits were allowed between buses owned by the State and other stage carriages even though the

provisions regarding permits is clearly capable of misuse."

21. I referred with approval to the principle laid down by Mathews J. in Fanwrik v. Hopkins, 30 Lawyer's Edn. 220 at p. 226 which is as follows :

> 'Though the law itself be fair on its face End impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances material to their rights the denial of equal justice is still within the prohibition of the constitution."

22. In the judgment delivered by Agarwala J. it was observed that:

> "the Regional Transport Authority which is a statutory body constituted under the Motor Vehicles Act must not arbitrarily refuse to exercise its functions. It must act judicially and take into consideration only those matters which are mentioned in Section 47 (1) and, in making its decisions, it must act bona fide and reasonably."

23. He further observed that-

> "The condition that there ought to be a demand and refusal before an application for mandamus is made ought not to be considered as an absolute legal bar so as to deprive an applicant of the redress to which he is otherwise entitled, as the case already cited."

24. I have considered it necessary to invite the attention of the Regional Transport Authority to some of the observations of the Judges who composed the Full Bench in order that it might understand the full import of the Full Bench decision and it might not become necessary for the applicants to come to this Court time after time. Whether the Government is nationalizing or is not nationalizing the industry or whether there is a bill in contemplation or there is not a bill by which the Government contemplates to create a monopoly, is a consideration with which the Regional Transport Authority, as a quasi independent judicial body which has some duties imposed upon it by an Act of the legislature has no concern whatever. The business of this body is to decide applications which had been pending since 1946 and which were renewed in May 1950 on the merits in accordance with the law laid down by this Court. The power of interpreting the constitution as also the laws of the State and the Union is the peculiar privilege, in cases coming before them, of Courts of law. The interpretation given by them can be set aside either by a contrary interpretation by a superior Court or by a valid Act of the legislature. It is thus incumbent on the Regional Transport Authority to accept the interpretation placed upon the law by this Court, which is the highest Court in the Uttar Pradesh. State, unless it has been either set aside by the Supreme Court or a larger bench of this Court or by a change validly made in the law itself by the legislature. The Regional Transport Authority should not by its actions create the impression that it is delaying the carrying out of the functions entrusted to it under the Motor Vehicles Act in order to give time to the State Government to bring about the changes needed in the law for enforcing the policy it was

directed by that Government to pursue. This is a consideration which the Regional Transport Authority should bear in mind. For a disregard of it can lead to consequences which I would consider deplorable. I have considered it necessary to make these observations because I am not convinced in this particular case and on the facts supplied to me that the Regional Transport Authority has been carrying out in letter and spirit the undertaking which was given to this Court. I regret to make these observations about this statutory authority but the inference is irresistible that obstructionist tactics are being followed by the Regional Transport Authority.

25. This being the case, I would grant a writ in the nature of mandamus to the Regional Transport Authority, Meerut, directing it to hear and determine in accordance with law the applications Nos. 189, 190, 191, 193 194 195, 196, 197, 198, 199 and 200 In the case of application No. 192, the position is that the applicant has been carrying on transport business since 1949. He was granted temporary permits only two or three months before he made an application for the renewal of a permanent permit which stood in the name of the previous owner of the bus in 1950. Another application was made by him for the renewal of a permanent permit in the first week of May 1950. He cannot, in the circumstances of the case, be regarded as the holder of a regular permit For this reason his case is distinguishable from the cases of others who have been holding regular permits for years and who applied in 1946 and in May 1950. His application for a writ is refused. I would, however, in his case make no order as to costs The applications of others are granted with costs.

V. Bhargava, J.

26. There are twelve applications for issue of a number of writs in the nature of mandamus, the details of which have been given by my brother Sapru J., in his judgment. It is not necessary for me to repeat the various reliefs that have been claimed by these applicants.

27. All these applicants, except Prakash Chand whose application is numbered as Misc. Case No. 192 of 1950, held permits for running stage carriages on the Saharanpur-Hardwar route which continued to be renewed and remained in force up to the year 1946. In the year 1946 all of them applied for renewal of their permits but no orders for renewal were passed. Instead, the Regional Transport Authority granted them temporary permits for running their stage carriages either on the same route or on other routes. These temporary permits have been described as having been issued in lieu of renewal. In 1949 two notices were issued by the Regional Transport Authority to all these applicants. One notice was dated 21-6-1949, and the other 25-11-1949. In both these notices, an intention was expressed to ran the state bus service on that route and the applicants were told that they would have to stop running their stage carriages in order to permit the Government Roadways to function. In almost every case, the first notice became more or less ineffective because the Government Roadways were not introduced at the time which was mentioned in the notice. All the persona to whom the notices were given were allowed to continue to run their stage carriages even after the expiry of the period mentioned in the notice. The second notice of 25-11-1949, was however, followed up by the closure of the bus service of all these applicants who were thereafter given temporary permits for short periods on entirely different routes. The applicants all made representation a to the Government but received no redress for their grievance. Almost every one of them applied either in the month of January or in the month of February to the Regional Transport

Authority for renewal of his old regular permit. In a number of cases the applications were returned to the applicants by the Secretary of the Regional Transport Authority whereas in some cases applications were retained but no orders were passed for renewal. The applicants again applied in the end of April or first week of May 1950. These applications also remained undisposed of and it was, in these circumstances that the present twelve applications were moved by the applicants on 11-5-1950. The principal prayer of the applicants in these applications is that this Court should issue directions to the Regional Transport Authority to bear and determine their applications in accordance with law.

28. The case of the remaining applicant Prakash Chand whose application is numbered as Misc. Case No. 192 of 1950, is different from the case of all these applicants. It appears that this applicant never held a regular permit. He only purchased a stage carriage from one W.C. Kenny who had held a regular permit in respect of that carriage for the year 1946 and had applied for its renewal. His regular permit had not been renewed and he has been granted a temporary permit and it was while the bus was running under the temporary permit that the applicant had purchased it from Kenny and started running it. This purchase was made in the year 1949. Subsequently, he was also treated in exactly the same manner as the remaining applicants. He also applied for renewal of the permit in the first week of May 1950, but it is also obvious that he applied for the renewal of a permit which had never been issued in his name and in which the transfer of the vehicle to him by Kenny had not been recorded.

29. These applications for renewal received by the Regional Transport Authority, it appears, have not been disposed of up to this time, though more than three months have elapsed since this Court was moved by these applicants to issue the writs. The manner in which the applications for renewal of permits of these applicants are being dealt with by the Regional Transport Authority has been disclosed in an affidavit filed by the Secretary of the Regional Transport Authority. It appears that a meeting of the members of the Regional Transport Authority was held on 5-6-1950, to consider the question of renewal of permits and grant new permits to persona wanting to run stage carriages on this route. On that day the subject was not taken up in the meeting for want of time and it, therefore, came up in the next meeting on 14-6-1950. On that date it was decided to call for applications from all persons who might desire to have permits for running carriages on this route and 15-7-1950, was fixed for receipt of such applications, About 4,000 applications were received by 15-7-1950. These applications bad to be published and tabulated under Section 57, Motor Vehicles Act, 1939, and it appears that the tabulation of these applications is still going on. The learned Senior Standing Counsel stated that, in all likelihood, another fortnight will still be taken in completing the tabulation of these applications. It is in the light of this explanation of the latest position that orders have to be passed on these twelve applications.

30. In a case of this nature, a number of questions of law arise but in this particular case it is not necessary to discuss any of these questions because they have all been decided already by the decision of a Full Bench of this Court in Moti Lal v. Govt. of Uttar Pradesh, Civ. Misc. Nos. 4 to 100, 103 to 140, 142 to 154, 156 to 168 and 170 to 176 of 1950, in which judgment was delivered by the Full Bench on 11-5-1960. It is to be noted that the judgment of the Full Bench was delivered on the very day on which these twelve applications were moved by the applicants. The judgment of the Fall

Bench shows that, prior to the decision of those cases, the interpretation which was being put by the Regional Transport Authority and the Government on the existing laws was that they had the right to stop private owners from running stage carriages on a route on which the Government might desire to run state buses on a monopoly system. It was as a decision of the Full Bench that it was made clear that, unless a valid law was passed authorising the Government to run state buses on a monopoly basis and permitting it to stop private owners from running their stage carriages, it was illegal for the Regional Transport Authority to refuse permits to private persons simply in the interest of the Roadways run by the State, During the hearing of the case before the Full Bench, an undertaking had been given by the Advocate General on behalf of the Government of the State of Uttar Pradesh as well as on behalf of the Regional Authority that all applications for permits presented by the applicants whose cases were before the Full Bench, would be dealt with in accordance with law by those authorities. This undertaking was given some time about the end of the third week of April 1950. The undertaking does not strictly apply to cases of these twelve applicants who are before us but it is also clear that, when the undertaking was given, it was fully understood by those who were represented by the learned Advocate-General that it was incumbent on them to consider all applications for renewal or grant of permits in accordance with law laid down in the Motor Vehicles Act, 1939, and it was not open to them to reject these applications merely because the State wanted to run Government Roadways on any particular route. This point was further clarified by the Full Bench in its judgment which was delivered on 11-5-1950. It was to be expected, after the undertaking was given and at the latest, after the judgment of the Full Bench, that the Regional Transport, while dealing with the case of these twelve applicants, would also proceed on the same principles.

31. The learned Senior Standing counsel on behalf of the State has, on the basis of the affidavit filed by the Secretary of the Regional Transport Authority, tried to show that in these cases the Regional Transport Authority has been acting strictly in accordance with law as laid down in the Motor Vehicles Act. The stand taken by him is that under Sub-section (2) of Section 57, Motor Vehicles Act, 1939, there can be two alternative dates for the presentation of applications for permits, The first alternative date is a date, at least six weeks prior to the date on which the applicant desires his permit to take effect. The second alternative date is a date which the Regional Transport Authority may fix for the presentation of all such applications. It was contended by the learned Senior Standing Counsel that in this case the Regional Transport Authority acted under the second alternative clause and fixed 15-7-1950, accordingly as the date on which all applications for permits were to be presented. In adopting this course, it appears that the Regional Transport Authority went wrong for two reasons; Firstly, if any one had already presented an application which could be considered to comply with the requirements of the first alternative mentioned in Section 57 (2), Motor Vehicles Act, it was incumbent on the Regional Transport Authority to consider that application and it was not competent for it to ignore that application simply because it subsequently decided to fix a date for the presentation of applications under the second alternative. The second reason is that all the applications, with which we are concerned in this case, were applications for renewal and not for new permits. A reading of the previsions of Sub-section (2) of Section 67 of the Act makes it clear that the second alternative permitting the Regional Transport Authority to fix a date inviting applications for permits can be meant only for those cases where applications are invited for new permits and cannot govern oases where the applications are for renewal of old

permits. On both these grounds, it was necessary for the Regional Transport Authority to decide the applications of these applicants without any delay The applications for renewal, as has been mentioned above, are not only those which were presented in the last week of April and the first week of May 1950, but also include the previous applications which were presented by these applicants in the year 1946 and on which no final orders have yet been passed either allowing or rejecting them in accordance with law. Up to 11-5-1950, the Regional Transport Authority could have an excuse for not passing orders on these applications because the legal position was not quite clear till then but, after the decision by the Full Bench, there should have been no further delay. On behalf of the applicants, it has been contended that the delay on the part of the Regional Transport Authority was deliberate and in this connection, reference has been made to a Bill which has been published by the Government and under which the Government intend to take powers to run State buses on a monopoly basis. The fact that there has been considerable delay in passing orders on these applications, which delay is not justified by the provisions of the Motor Vehicles Act, combined with the circumstance that the Government are contemplating legislation does create a suspicion that the delay night not have been entirely bona fide : but I do not think that it is at all necessary to give any definite finding on this point. All that is necessary to lay down in the case of these eleven applicants (other than Prakash Chand) is that their applications for renewal should be decided by the Regional Transport Authority without any further delay. The only delay that would be justified would cover the period required under the provisions of the Motor Vehicles Act itself. There is no justification for linking these applications with the other 4,000 and odd applications which have been received by the Regional Transport Authority in response to its invitation of such applications on 16-7-1950. Those applications have been received under the provisions of the second alternative provided by Clause (2) of Section 67 of the Act and they may be dealt with as one set of applications. These applications which were presented earlier should not in any way, be linked with them and should be separately decided as having been received in accordance with the first alternative provided by Sub-section (2) of Section 57, Motor Vehicles Act Of course, in deciding these applications, the Regional Transport Authority would have to go through the procedure prescribed in Sub-section (3) of Section 57 of the Act. This procedure would require a period of, at least, one month and it may, therefore, be reasonable to expect that these applications would be finally decided by 25-9-1950. In the light of the view expressed by the Full Bench it is also clear that all these applicants are entitled to a writ in the nature of mandamus directing the Regional Transport Authority to decide their applications for renewal in accordance with the provisions of the Motor Vehicles Act without taking into consideration extraneous circumstances, such as the desire of the State Government to run State buses on the same route.

32. So far as the application of Prakash Chand is concerned, it cannot be allowed because there is no valid application for renewal of the permit presented by him to the Regional Transport Authority. The facts mentioned above show that Prakash Chand never held any regular permit and she mere fact that he received the bus from the previous owner who had a regular permit cannot give him any right in that regular permit. Prakash Chand has, since he became the owner of the bus, run it only under a temporary permit. His application for renewal presented in May 1950, was, therefore, not in accordance with Jaw. At best, it can be treated as an application for a new permit. Such an application by him can be dealt with at the same time as the other applications which have been received by the Regional Transport Authority in response to its notice. Prakash Chand is, therefore,

not entitled to any relief.

33. Except for the relief for the issue of a writ in the nature of mandamus directing the opposite parties to decide the renewal applications of the applicants in accordance with law, no other relief claimed by them can be granted. The second relief claimed seeks a direction from this Court for the opposite, parties to withdraw their notices, dated 21st of June and 25-11-1949. The views expressed by the Full Bench which are applicable to the present case, clearly indicate that both these notices are invalid in law and the mere mention that these notices are invalid is quite sufficient. The writ issued to the opposite parties directing them to decide these renewal applications of the applicants in accordance with law will itself have the effect of giving an implied direction to the opposite parties to ignore these invalid notices. The third relief that a writ in the nature of mandamus be issued to the Government of the State of Uttar Pradesh directing it not to introduce or ply on hire its Roadways on the Saharanpur Hardwar route unless authorised by a valid law must also be refused in the light of the views expressed by the Full Bench. A similar prayer-was put up before the Full Bench and it was refused. Similarly, the fourth prayer for the proper constitution of the Regional Transport Authority according to the valid provisions of the Motor Vehicles Act, 1939, must also be refused on the same ground on which it was refused by the Full Bench in the case before it, the ground being that there was nothing to show that the members of the Regional Transport Authority were being paid out of the proceeds of the funds received from the transport business of the State Government. With regard to costs, I entirely agree with the order proposed by my brother Sapru J. All the applicants, except Prakash Chand, in whose case I agree that no orders be made as to costs, should be allowed their costs.

34. By the Court.--Let a writ in the nature of mandamus be issued to the Regional Transport Authority, Meerut, directing it to hear and determine, in accordance with law, all the applications of the applicants in Cases Nos. 189 to 191 and 193 to 200 of 1950 made under Section 58 (2), Motor Vehicles Act, 1939, for the renewal of permits presented by the applicants of the aforesaid cases. The applicants are entitled to their costs in this Court. The application of Prakash Chand in Misc. Case No. 192 of 1950 is dismissed but we make no orders as to costs.