Supreme Court of India
State Of Tamil Nadu, Etc, Etc vs L. Abu Kavur Bai And Ors. Etc on 31 October, 1983
Equivalent citations: 1984 AIR 326, 1984 SCR (1) 725
Author: S M Fazalali
Bench: Chandrachud, Y.V. ((Cj), Fazalali, Syed Murtaza, Tulzapurkar, V.D., Reddy, O. Chinnappa (J), Varadarajan, A. (J)

PETITIONER:
STATE OF TAMIL NADU, ETC, ETC.

Vs.

RESPONDENT:
L. ABU KAVUR BAI AND ORS. ETC.

DATE OF JUDGMENT31/10/1983

BENCH:
FAZALALI, SYED MURTAZA
BENCH:
FAZALALI, SYED MURTAZA
CHANDRACHUD, Y.V. ((CJ)
TULZAPURKAR, V.D.
REDDY, O. CHINNAPPA (J)
VARADARAJAN, A. (J)

CITATION:
1984 AIR 326 1984 SCR (1) 725
1984 SCC (1) 516 1983 SCALE (2)541
CITATOR INFO :
RF 1984 SC 374 (16,17,19)
R 1990 SC 123 (37)
RF 1992 SC 938 (22,32)

ACT:
Constitution of India 1950 Article 14,19,31,39(b) and (c).
Tamilnadu Stage Carriages and Contract Carriages (Acquisition) Act 1973-Nationalisation of stage carriages and contract carriages-Vesting of vehicles, workshop etc. in the government on nationalisation-Whether confiscatory legislation-Constitutionally valid and permissible-Scope of Articles 39(b) and (c)-What is interpretation of Statutes.
Policy of Nationalisation evolved by government-Duty of Courts to give effect.
Words and Phrases: "distribution" -"Material resources" -Meaning of-Constitution of India 1950 Article 39(b).

HEADNOTE:
The transport industry can be nationalised by two

methods: (i) where the Government acts under Chapter IV-A, (section 68 (b) and (c) of the Motor Vehicles Act 1939), after formulating the scheme for taking over a route or routes, and (ii) the more effective method, to take over the running of the entire transport services by nationalising them, along with their units, (Vehicles, workshops etc.) either by one stroke or by stages spread over a short time.

The Karnataka State adopted the second method and the legislation viz., the Karnataka Contract Carriages (Acquisition) Act, 1976 was upheld by this Court in State of Karnataka and Anr. v. Ranganatha Reddy and Anr., [1978] 1 S.C.R. 641.

The Tamilnadu State passed, the Tamil Nadu Stage Carriages and Contract Carriages (Acquisition) Ordinance, 1973 which later took the shape of the Tamil Nadu Stage Carriages and Contract Carriage (Acquisition) Act, 1973.

The intention of the Act was to start the nationalisation scheme in one district of the State first and then extend it to other districts. Section 1 provided
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that the policy of nationalisation shall come into force on the 14th January, 1973. Clause (iii) of sub-section (4) (b) of section I laid down that with respect to stage carriages in any other district in the State, the Act will come into force on such dates as the Government may by notification appoint. Section 2 codified one of the clauses of the preamble by enacting a declaration that the Act was meant for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution and the acquisition in respect of the stage carriages and contract carriages and other properties referred to in section 4.

Section 4, the pivotal section provided that on and from the date as may be specified by the Government in respect of any stage carriage or contract carriage operator, the permit issued to the operator shall vest in the Government absolutely free from all encumbrances and stage carriages or contract carriages which vest in the Government, shall by force of such vesting be freed and discharged from any trust, obligation and encumbrances etc. It was further provided that any person interested shall have no claim in relation to such carriages or contract carriages taken over by the State in pursuance of the nationalisation policy and the claim, if any, would be limited to the amount payable under the Act. Sub-section (3) of section 4 contained a declaration that the vesting of the stage carriages and other properties shall be deemed to have been acquired for a public purpose and in public interest.

Section 6 provided for a reasonable amount of compensation to be paid to the operators on their properties vesting in the Government. Where the amount can be fixed by agreement, the same shall be determined in accordance with the agreement and in other cases by an arbitrator appointed

by the Government. Section 12 provided for an appeal to the High Court against the award of the arbitrator.

The schedule to the Act fixed the scale of compensation enunciated the principles on which it was to be awarded and contained the guidelines for its payment.

The operators whose stage carriages were taken over by the State Government assailed the constitutional validity of the Act in their writ petitions in the High Court.

The High Court held that the Act was ultra vires Articles 14 and 19 of the Constitution as it did not fall within the scope of Articles 31 C, and that by virtue of the Act the financiers who were the owners of the stage or contract carriages would be completely wiped out of their business and that therefore Article 19 was clearly violated. It further held that the objects of Article 30 (b)& (c) have not been subserved and since the vehicles taken over by the State under the Act were moveable properties Article 39 was not applicable.

In appeals to this Court it was contended on behalf of the State that the Act squarely fell within the protective umbrella of Article 31 inasmuch as

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in pith and substance, the Act sought to subserve and secure the objects contained in clauses (b) and (c) of Article 39 and was, therefore, fully protected from the onslaught of Articles 14,19 and 31. The provisions of the Act are almost in pari materia with the Karnataka Contract Carriages (Acquisition) Act, 196, which has been upheld by this Court. On the other hand, it was contended on behalf of the operators (Respondents in the appeals and petitioners in the writ petition) that the manner in which the transport services had been nationalised under the Act did not fall within the ambit of Article 39 (b) and (c) as the buses or the vehicles were not an integral part of the policy of nationalisation. If the Act had nationalised the transport services without taking over the units and the workshops, etc, then the operators could have had something to fall back upon to earn their livelihood. Complete deprivation of livelihood by the Act amounted to a confiscatory piece of legislation and therefore void.

Allowing the appeals and dismissing the writ petitions:

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HELD: The Tamilnadu Stages Carriages and Contract Carriages (Acquisition) Act 1973 is constitutionally valid. [766 A]

1. By and large the provisions of the two Acts viz. the Karnataka Contract carriage (Acquisition) Act, 1976 and the Tamil Nadu Stages Carriages and Contract Carriages (Acquisition) Act, 1973 appear to be identical in many respects and the general structure and the fundamental features of the two Acts are almost same. In view of the clear decision of this Court regarding the constitutional validity of the Karnataka Act, very little survives so far

as the arguments in this case, advanced on behalf of the respondents are concerned. Further the three important decision in Minerva Mills, Waman Rao and Sanjeev Coke Manufacturing cases, reinforce and reiterate the conclusions reached in the Karnataka case. [751 F, 752 D-E]

2. (i) There appears to be complete unanimity of judicial opinion on the point that although the directive principles are not enforceable yet the court should make a real attempt at harmonising and reconciling the directive principles and the fundamental rights and any collision between the two should be avoided as far as possible. [736 B]

(ii) Whereas in the 25th Amendment, the protective umbrella given by Constitution was restricted to laws passed only to promote objects in Cls. (b) & (c) or Art. 39, by virtue of the 42nd Amendment the limitations which were confined to Cls. (b) and (c) of-Art. 39 were taken away and the Article was given a much wider connotation by legislating that Acts or laws giving effect to all or any of the principles laid down in part IV of the Constitution would be protected by the umbrella contained in Art. 31C and would be immune from challenge on the ground that they were violative of Art. 14 or 19. [738 C-D]

(iii)From a combined reading of Bharati's and Minerva Mills' cases as also of the subsequent decisions, the undisputed position is that Art. 31C, as introduced by the 25th Amendment, is constitutionally valid in all respects. [738 G-H]

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3. An important facet of Act 31C, is that there should be a close nexus between the statute passed by the legislature and the twin objects mentioned in clauses (b) and (c) of Art. 39. The doctrine of nexus cannot be extended to such an extreme limit that the very purpose of Art. 39 (b) and (c) is defeated. By requiring that there should be nexus between the law and Art. 39 (b) what is meant is that there must be a reasonable connection between the Act passed and the objects mentioned in Art. 39 (b) and (c) before the said Article can apply. If the nexus is present in the law then protection of Art. 31C becomes complete and irrevocable. [739 F-740 A]

State of Kerala & Anr. v. N.M. Thomas & Ors., [1976] 1 S.C.R. 906 at 993 to 996; His Holiness Kesavananda Bharati Sripadagalaveru v. State of Kerala,[1973] Supp. S.C.R. 1; Minerva Mills Ltd. & Ors. v. Union of India & Ors., [1981] 1 S.C.R. 206 at 261; Waman Rao & Ors. etc. etc. v. Union of India & Ors. [1981]2 S.C.R. 1 at 41; and Sanjeev Coke Manufacturing Co. v. M/s. Bharat Coking Coal Ltd. & Anr. [1983] 1 S.C.C. 147/160, referred to.

4. In a case where Art. 31C applies, whether compensation is necessarily to be given, has the following facts:-

(a) if Art. 31C is taken, to exclude Art. 31 (2) the

question of compensation becomes irrelevant and otiose, ,[741 D]

(b) nationalisation of transport service by the State is unobjectionable and unexceptionable and can be accomplished in three different methods:-

(i) nationalisation of services and not units thereof, [741 E]

(ii) nationalisation of the services alongwith the entire assets of the units, and [741 F]

(iii) nationalisation of the services and part of the assets of the units of the operators. [741 G]

In the instant case, the State of Tamil Nadu has taken recourse to method (iii) above, i.e. it has nationalised the entire transport service as also a part of the entire assets of the units thereof. As nationalisation is a policy decision, an enquiry into the policy of the legislature or the considerations governing the same, cannot be made by the courts unless the policy is so absurd as to violate the provisions of the Constitution. In view of Art. 31C, the court cannot strike down the Act merely because the compensation for taking over the transport services or its units is not provided for. The reason for this is that Art. 31C was not merely a pragmatic approach to socialism but imbibed a theoretical aspect by which all means of production, key industries, mines, minerals, public supplies, utilities and services may be taken gradually under public ownership, management and control. [741 H-742 B]

Akadasi Padhan v. State of Orissa [1963] Supp. (2) S.C.R. 691, referred

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5. From a perusal of Bharati's as also Karnataka cases the following principles for assessing compensation after the amendment of Art. 31 (2) by substitution of the word 'amount', emerge:

(1) that compensation should not be arbitrary or illusory,

(2) that the amount fixed as compensation should not be unprincipled,

(3) that the compensation sought to be paid should not be so arbitrary or illusory as to be unconscionably shocking, and

(4) it is not necessary that compensation must represent the actual market value or be adequate for even if compensation is inadequate but not illusory, the requirement of Art. 31 (2) is fully complied with. [755 E-H]

In the instant case, on the question of compensation the relevant sections of the Act are completely in accordance with the principles enunciated above and hence the argument of the counsel for the respondents that the compensation is wholly inadequate or illusory must be

overruled. [756 A]

6. (i) The compensation awarded or the principles contained in the various sections of the Act are not illusory but amount to a just and sufficient compensation to the operators whose properties are taken away. In fact, it was to meet such situations that Art. 31C was introduced so that any obstacle resulting in evil consequence to the operators or persons whose properties are taken over is completely removed. [757 B]

In the instant case, the State has nationalised the stage and contract carriages for the purpose of providing a general and expeditious transport at reasonable rates to the members of the public and such a policy is undoubtedly in public interest and involves an important public purpose. [758 F]

(ii) Art. 39 (b) does not mention either moveable or immovable property. The actual expression used is 'material resources of the community' "Material resources" are wide enough to cover not only natural physical resources but also moveable or immovable properties. [759 E]

7. (i) If the State chooses to monopolise trades in certain essential commodities or properties, the purposes mentioned in Art. 39 (b) & (c), Art. 31 (2) would be completely excluded; otherwise no State monopoly is ever possible. It was for this reason that Parliament thought it advisable to protect the objects contained in Article 39 (b)

JUDGMENT:

(ii) Article 31(2) by virtue of the 25th Amendment omitted the word 'compensation' and had substituted the word 'amount' which gives ample discretion to the State to fix a reasonable amount if the property of an individual is taken over for a public purpose. The court in such matters cannot interfere with the amount so fixed unless it is shown to the court's satisfaction that the amount fixed is so monstrous as to shock its conscience. [761 G-762 A]

8. The persons whose properties are taken over cannot be heard to complain that the compensation awarded to them should be according to the market value which, if conceded, would defeat the very purpose and objective of Article 39

(b) & (c). The principles that emerge are.

(1) that in view of the express provisions of Art. 31C which excludes Art. 31 (2) also, where a property is acquired in public interest for the avowed purpose of giving effect to the principles enshrined in Art. 39 (b) & (c), no compensation is necessary and Art. 31 (2) is out of the harms way, and (2) That even if the law provides for compensation, the courts cannot go into the details or adequacy of the compensation and it is sufficient for the State to prove that the compensation was reasonable and not monstrous or illusory so as to shock the conscience of the court. [762 E; C-D] In the instant case, both the conditions mentioned above are fully satisfied having regard to the provision of the Act. [762 F]

9. It will not be correct to construe the word 'distribution' in a purely literal sense so as to mean only division of a particular kind or to particular persons. The words, apportionment, allotment allocation, classification, clearly fall within the broad sweep of the word 'distribution'. So construed, the word 'distribution' as used in the Art. 39 (b) will include various facets, aspects, methods and terminology of a broad-based concept of distribution. The word 'distribution' does not merely mean that property of one should be taken over and distributed to others like land reforms where the lands from the big landlords are taken away and given to landless labourers or for that matter the various urban and rural ceiling Acts. That is only one of the modes of distribution but not the only mode. [763 G-764 A] In the instant case, distribution is undoubtedly there though in a different shape. So far as the operators were concerned they were motivated by making huge profits and were most reluctant to go to villages or places where the passenger traffic is low or the track is difficult. This naturally caused serious in convenience to the poor members of the community who were denied the facility of visiting the towns or other areas in a transport. By nationalising the transport as also the units the vehicles would be able to go to the farthest corner of the State and penetrate as deep as possible and provide better and quicker and more efficacious facilities. This would undoubtedly be a distribution for the common good of the people and would be clearly covered by cl. (b) of Art. 39. [764 B-C]

10. Once a policy of nationalisation is in public interest and for public good, some losses, some damages, some prejudices and some harsh consequences are bound to follow but this does not mean that the aforesaid considerations should result in a stalemate of the policy of State monopoly or nationalisation. [756 H] & CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 957- 966(N) of 1973 and 435-442 of 1976.

From the Judgment and order dated the 24th April, 1973 and 19th April, 1973 of the High Court of Madras in Writ Petition Nos. 1647, 1900, 1466, 1557, 1559, 1527, 1256, 1488, 1584 and 1585/73 and 741, 157, 132, 123, 288, 1486, 1528 and 876/1973 respectively.

AND Writ Petition Nos. 8818 of 1982 and 312-313 of 1979. (Under article 32 of the Constitution) S.S. Ray, R.K. Garg and A. V. Rangam for the Appellants.

Vineet Kumar for the respondent No. 1 in CA. Nos. 965, 966, 437 & 439.

G.L. Sanghi and Miss Lily Thomas for the respondent No. 1 in CAs. 957 & 962 & W.P. No. 8818/82.

K K. Venugopal, A.K Sen, A.T.M. Sampath, M.N. Rangachari, S. Srinivasan and Mahabir Singh for the respondent No. 1 in CAs. 959,960-961,963,964 & Respd No. 1 in CAs. 435-42/76.

J. Ramamurthi for the respondent No. 1 in C.A. No. 438. A.T.M. Sampath for the petitioners in WPs. 312 & 313/79.

K G. Bhagat Additional Solicitor General Miss A. Subhashini, T. V.S. Narasihma Chari and C. V. Subba for the interveners. (For. Art. Genl).

A.V. Rangam for Eherran Transport.

A.T.M. Sampath, M.N. Rangachari, S. Srinivasan and Mahabir Singh for K.A. Kanappa Chetty & T.R. Subhraj.

B. Parthasarthy for Adv. Genl. Orissa and Cherran Transport Employees Union.

Ashak Grover for Adv. Genl. J & K.

A.K. Sen, A.T.M Sampath and K. Ram Kumar for D. Kannia Pillai, M/s. Sundaram Finance P.T. Krishnan and S.K. Nandy for State of Assam.

The Judgment of the Court was delivered by FAZAL ALI, J. One of the planks of building an egalitarian society in order to achieve socio-economic emancipation is the policy of nationalisation of industries. Easy, cheap and dependable transport is a prime social necessity. Unfortunately, no State has been able to achieve this goal so far by a full-fledged nationalisation. Reliance is largely placed on schemes framed under Chapter IV-A of the Motor Vehicles Act.

Perhaps Karanataka was the only State which having become 'sadder and wiser' took the lead in enunciating the bold step of complete nationalisation of the entire transport industry but, unfortunately, it has not yet been able to implement it fully.

There are two methods by which the transport industry can be nationalised:-

(1) where the Government acts under Chapter IV A (s.68

(b) & (c) of the Motor Vehicles Act) and after due publication formulates a scheme for taking over route or routes and invites objections thereto. After the objections have been received they are decided and ultimately processed. This method however is dilatory and involves a time consuming process which leads to delaying tactics adopted by the operators. Even so, after the objections have been decided the operators or the persons concerned are not satisfied but go up in appeals to the law courts. These delaying tactics have resulted in most cases in an indefinite postponement of the scheme of nationalisation. Moreover, normally this process is applied to a route or routes selected by the Government and is accomplished by stages which also takes a long time.

(2) Another method which is the more effective one is to take over the running of the entire transport services by nationalising them, alongwith their units (vehicles, workshops, etc.) either by one stroke or by stages spread over a short time. This course is clearly permissible under cls. (b) & (c) of Art. 39 of the Constitution as would be discussed in a later part of the judgment.

The Karnataka State tried the second method and succeeded, to some extent, but ran into difficulties for one reason or the other. The Tamil Nadu State following the Karnataka pattern passed the impugned ordinance, which later took the shape of the Tamil Nadu Stage Carriages and Contract Carriages (Acquisition) Act, 1973 (hereinafter referred to as the 'Act') to nationalise the State

transport industry by stages. The Madras High Court stayed the operation of the ordinance as also the Act and declared void all its provisions. As a result, nationalisation of transport became a stillborn child and its progressive policy was stifled the day it was put into action.

It is this judgment of the High Court which is the subject matter of appeals and writ petitions before us. The Madras High Court declared the Act ultra vires as being violative of Arts. 14 and 19 of the Constitution as it did not fall within the protective umbrella contained in Art. 31C and on a number of other grounds which would be examined hereafter.

It is manifest that the attempt of the Tamil Nadu legislature to give effect to the principles enshrined in Art.39(b)&(c) would have secured the socialist objective aimed by the Constitution in order to build up an egalitarian society. By virtue of complete nationalisation the numbers of the public or the community would have got much better and greater facilities than afforded to them by the private operators running vehicles under permits. Secondly, the efficiency and efficacy of the services would undoubtedly make a marked improvement in the manner and method of running the vehicles as compared to the services run by private operators. Thirdly, prior to the passing of the Act, the entire services were actually run behind the screen through various financiers in the name of the operators with whom they had entered into hire-purchase agreements. This obviously led to concentration of wealth in the hands of a few. With the coming into force of the total nationalisation scheme, this device of concentration of wealth would be completely nipped in the bud resulting in an equal distribution of wealth and services among the people of the country. Fourthly, the private services run by the operators mainly inspired by profit making motive neither had the will nor the capacity to penetrate as deep as possible into areas so far inaccessible to the travelling public and would confine their running of the services only to serve important points. When the State takes over the entire transport services, it would undoubtedly be its duty to see that the vehicles reach the most distant part or corner of the State and serve as many travelling public as possible so that nobody is caused any inconvenience. These are some of the initial advantages of a total nationalisation scheme, which would be brought to the fore and provide an ideal service for the members of the community at large. It may be that in this process some financiers would suffer loss and some operators may also be wiped out of the business but this cannot be helped as the scheme of our Constitution is that individual rights or benefits must yield to the larger benefits and good of the entire community. Some of these points were very elaborately dealt with in the case of State of Karnataka & Anr. etc. v. Ranganatha Reddy & Anr. etc. (for facility, hereinafter referred to as 'Karnataka case').

The Act was for the purpose of carrying out and implementing the objects specified in Art.39(b)&(c) and was, therefore, immune from challenge on the ground that the Act or its provisions were violative of Art. 14, 19 or 31. This was accomplished by virtue of Art.31C, introduced by the 25th Constitution Amendment, which gave a protective umbrella to such acts so as to exclude them from the operation of Arts.14, 19 or 31. Before dealing with the provisions of the Act we might give a resume of the importance and significance of the directive principles contained in Art.39(b)&(c) which may be extracted thus:

> "39. The State shall, in particular, direct its policy towards securing-

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment."

We would not like to tread on the difficult and delicate ground as to whether or not the directive principle or the fundamental rights have primacy over one or the other. Nevertheless, it would appear that right from 1959 uptodate this Court has stressed and emphasised the importance of directive principles in a number of cases, some of which may be listed below:

(a) Mohd. Hanif Quareshi & Ors. v. State of Bihar (1959 SCR 629 at 648)

(b) In Re the Kerala Education Bill, 1957 (1959 SCR 995 at 1020,1022)

(c) I.C. Golak Nath & Ors. v. State of Punjab & Ors. (1967 (2) SCR 762 at 789-790)

(d) Chandra Bhavan Boarding & Lodging, Bangalore v.

The State of Mysore & Anr. (1970 (2) SCR 600 at

612)

(e) His Holiness Kesavananda Bharati Sripadagalaveru v. State of Kerala (1973 Supp. SCR 1) In State of Kerala & Anr. v. N.M. Thomas & Ors. one of us (Fazal Ali, J) reviewed the earlier cases and has collected the ratio of all the decisions on this point at one place.

In recent decisions on the subject the view that has crystallised is that the courts should attempt to give a harmonious interpretation to the directive principles contained in part IV of the Constitution even though not enforceable. Attempt should , therefore, be made to reconcile the two important provisions rather than to arrive at conclusions which bring into collision these two provisions-one contained in part III and the other in part IV. We must appreciate that the reason why the founding fathers of our Constitution did not advisedly make these principles enforceable was perhaps due to the vital consideration of giving the Government sufficient latitude to implement these principles from time to time according to capacity, situations and circumstances that may arise.

On a careful consideration of the legal and historical aspects of the directive principles and the fundamental rights, there appears to be complete unanimity of judicial opinion of the various decisions of this Court on the point that although the directive principles are not enforceable yet the court should make a real attempt at harmonising and reconciling the directive principles and the fundamental rights and any collision between the two should be avoided as far as possible.

In the instant case, we are really concerned with the second limb of the Constitution, viz., the importance and significance of the directive principles contained in part IV. We now propose to

discuss the purport, significance, scope, ambit and rationale of Art.31C, which may be extracted thus:

> "31C. Saving of laws giving effect to certain directive principles Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing all or any of the principles laid down in part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:
>
> Provided that where such law is made by the legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent."

A brief setting and origin of this Article is contained in the objects and Reasons of the Constitution (25th Amendment) Act, 1971, which show that the amendment was introduced with the main objective of getting over the difficulties placed in the way of giving effect to the directive principles of State policy.

It is manifest from a bare reading of the newly added Art.31C that any law effectuating the policy of the State in order to secure or comply with the directive principles specified in clauses (b) and (c) of Art.39 would not be deemed to be void even if it is inconsistent with or violates Arts. 14, 19 or 31. It was further provided that any law which contains a declaration that it was put on the statute book for giving effect to such a policy, the same could not be called into question in any court on the ground that the new law does not give effect to the policy. In other words, the position was that once Art.31C was put on the statute book, the question of any law being in violation or infraction of the fundamental rights contained in part III (Arts.14, 19 and 31) ceased to be justiciable. Art.31C further provided that where a law is made by the legislature of a State, the provisions of this Article would apply only if the law had received the assent of the President of India. We might mention here that it is undisputed in the instant case that the impugned law had received the assent of the President and is, therefore, fully enforceable in the State of Tamil Nadu if it fulfils the conditions of Art. 31C, which it doubtless does. A substantial part of this amendment appears to have been held to be valid by a majority of 7:6 in His Holiness Kesavananda Bharti Sripadagalaveru v. State of Kerala (hereinafter referred to as 'Bharti's case'), but a portion of Art. 31C was held to be invalid.

While considering the scope, ambit and constitutional validity of Art. 31C, the majority judgment in Bhararti's case (supra) held that the first part of Art 31C was valid but the second part, viz., "and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy" was held to be invalid. In other words, so far as the present aspect of the case before us is concerned, the majority judgment clearly held that while Art. 31C permitted Parliament to make any law giving effect to the policy of the State towards securing the principles contained in cls. (b) and (c) of Art. 39, such law could not be declared void even if such a course of action violates or abridge any of the rights conferred by Art.

14, 19 or 31.

Another crucial stage in the history of Art. 31C arose when the famous 42nd amendment of the Constitution was passed by the Parliament. By virtue of this amendment a complete, irrevocable and impregnable constitutional protection was given to laws passed not only to implement the principles specified in cls. (b) & (c) of Art. 39 but also the principles contained in all the clauses of Art. 39. However, to put the record straight and to complete the history of Art. 31C we may briefly indicate the distinction between the 25th and 42nd amendments thus:

Whereas in the 25th amendment, the protective umbrella given by the Constitution was restricted to laws passed only to promote objects in cls. (b) & (c) of Art.39, by virtue of the 42nd amendment the limitations which were confined to cls. (b) and (c) of Art.39 were taken away and the Article was given a much wider connotation by legislating that Acts or laws given effect to all or any of the principles laid down in part IV of the Constitution would be protected by the umbrella contained in Art. 31C and would be immune from challenge on the ground that they were violative of Art.14 or 19.

Even so, in Minerva Mills Ltd. & Ors. v. Union of India Ors., one of us (Chandrachud, CJ) while referring to the ratio of Bharati's case on the unamended Art.31C observed as follows:

> "Indeed, if there is one topic on which all the 13 Judges in Kesavananda Bharati were agreed, it is this: that the only question open to judicial review under the unamended Art.31C was whether there is a direct and reasonable nexus between the impugned law and the provisions of Art 39(b) and (c). Reasonableness is regarding the nexus and not regarding the law."
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> (Emphasis ours) Thus, it would appear from a combined reading of Bharati's and Minerva Mills cases as also of the subsequent decisions that the undisputed position is that Art.31C, as introduced by the 25th amendment, is constitutionally valid in all respects and has survived the stormy decision of Bharati's case.

Similar observations were made in Waman Rao & Ors. etc. v. Union of India & Ors., where one of us (Chandrachud, CJ) observed thus:

> "Article 31 is now out of harm's way. In fact, far from damaging the basic structure of the Constitution, laws passed truly and bona fide for giving effect to directive principles contained in clauses (b) and (c) of Article 39 will fortify that structure."
>
> (Emphasis supplied) In the latest Constitution Bench decision of this Court in Sanjeev Coke Manufacturing Co. v. M/s. Bharat Coking Coal Ltd. & Anr., it has been emphasised that the constitutional validity of Art.31C is now beyond challenge and in this connection one of us (Reddy, J.) speaking for the Court made the following observations:

> "In the second place, the question of the constitutional validity of Art.31C appears to us to be concluded by the decision of the Court in Kesavananda Bharati case."
>
> In view of the aforesaid decisions, it is not necessary for us to dilate further on the question of the constitutional validity of Art.31C.

Another important facet of Art.31C which has been emphasised by this Court is that there should be a close nexus between the statute passed by the legislature and the twin objects mentioned in clauses (b) and (c) of Art.39. In approaching this problem and considering the question of nexus a narrow approach ought not to be made because it is well settled that the courts should interpret a constitutional provision in order to suppress the mischief and advance the object of the Act. The doctrine of nexus cannot be extended to such an extreme limit that the very purpose of Art.39 (b)&(c) is defeated. By requiring that there should be nexus between the law and Art.39(b)&(c) what is meant is that there must be a reasonable connection between the Act passed and the objects mentioned in Art.39(b)&(c) before the said Article can apply. If the nexus is present in the law then the protection of Art.31C becomes complete and irrevocable.

Furthermore, the fact that there is a declaration in the Act regarding the purpose mention in Art.39(b)&(c) may generally be evidence of the nexus between the law and the objects of Art.39(b)&(c). In this connection, Iyer, J., in the Karnataka case observed thus:

> "The requisite declaration contemplated in Article 31C is thus made in the preamble as well as in section 2 of the Act.... The nexus between the taking of property and the public purpose springs necessarily into existence if the former is capable of answering the latter."

There is no particular magical tinsel or ritualistic formula in the term 'nexus' which may be closed in a strait- jacket. Even a nationalisation scheme meant for the purpose of distribution or preventing concentration of wealth, as in this case, would be sufficient nexus to attract the operation of Art.39(b)&(c). On this aspect of the matter, Iyer,J. in the Karnataka case further observed thus:

> "The next question is whether nationalisation can have nexus with distribution.. To 'distribute', even in its simple dictionary meaning, is to, allot, to divide into classes or into groups' and 'distribution' embraces 'arrangement, classification, placement, disposition, apportionment, the way in which items, a quantity, or the like, is divided or apportioned; the system of dispersing goods throughout a community."

In a later decision in Sanjay Coke Manufacturing Co.'s case (supra), adverting to this very point, one of us (Reddy, J.) made the following observations:

> "We are firmly of the opinion that where Article 31C comes in Article.14 goes out. There is no scope for bringing in Article 14 by a side wind as it were, that is, by equating the rule of equality before the law of Article 14 with the broad egalitarianism of Article 39

(b) or by treating the principle of Article 14 as included in the principle of Article 39 (b)."

We might now mention in passing some important facets of Art. 31C which we shall discuss in detail when we deal with the various provisions of the Act in the light of the reasons given by the High Court and the contentions advanced before us. At this stage, suffice it to say that on a proper and true construction of Art. 31C in the light of the decisions of this Court, the question of compensation becomes totally irrelevant. If, once the conditions mentioned in Art. 31C are fulfilled by the law, no question of compensation arises because the said Article expressly excludes not only Arts. 14 and 19 but also 31 which, by virtue of the 25th amendment, had replaced the word 'amount' for the word 'compensation' in Art. 31 (2). As already extracted, Chandrachud, CJ in Waman Rao's case has observed that once Art. 31C is attracted, Arts. 14, 19 and 31 are out of harm's way.

The question whether in a case where Art. 31C applies, compensation is necessary to be given, has the following facets:-

(a) if Art. 31C is taken, as it must be, to exclude Art. 31 (2), the question of compensation becomes irrelevant and otiose,

(b) nationalisation of transport services by the State is unobjectionable and unexceptionable and can be accomplished in three different methods-

(i) nationalisation of the services and not the units thereof,

(ii) nationalisation of the services alongwith the entire assets of the units, and

(iii) nationalisation of the services and part of the assets of the units of the operators.

In the instant case, the State of Tamil Nadu has taken recourse to method (iii) above., i.e., it has nationalised the entire transport service as also a part of the entire assets of the units thereof. It is obvious that as nationalisation is a policy decision, an enquiry into the policy of the legislature or the considerations governing the same cannot be made by the courts unless the policy is so absurd as to violate the provisions of the Constitution. In view of Art. 31C, which gives protective umbrella against Art. 31 (2) also, the court cannot strike down the Act merely because the compensation for taking over the transport services or its units is not provided for. The reason for this is that Art. 31C was not merely a pragmatic approach to socialism but imbibed a theoretical aspect by which all means of production, key industries, mines, minerals, public supplies, utilities and services may be taken gradually under public ownership, management and control.

Even as far back as 1963 in Akadasi Padhan v. State of Orissa, Gajendragadkar, J., speaking for the Constitution Bench, observed thus:

"To the rationalist, nationalisation or State ownership is a matter of expediency dominated by considerations of economic efficiency and increased output of

production.....

> The amendment made by the Legislature in Art. 19 (6) shows that according to the Legislature, a law relating to the creation of State monopoly should be presumed to be in the interests of the general public. Art. 19 (6) (ii) clearly shows that there is no limit placed on the power of the State in respect of the creation of State monopoly.... In our opinion, the amendment clearly indicates that State monopoly in respect of any trade or business must be presumed to be reasonable and in the interests of general public, so far as Art. 19 (1) (g) is concerned."

Thus, even in 1963 the change in the approach by the Supreme Court towards social problems had come to be seriously felt so much so that any policy of nationalisation of assets or State monopoly was held to be so necessary to acquire the goal of building an egalitarian society as to make the restrictions contained in Art. 19 (1) (g) reasonable. In other words, even if Art. 31C was not there, the policy of nationalisation of transport services could be held to be valid on the basis of this decision and would not violate Art. 19, being a reasonable restriction. The major part of the spirit of Art. 31C, which was introduced almost a decade after the above decision, was clearly anticipated and accepted in Akadasi Padhan's case (supra) and this Court in a way paved the way for more socialistic reform which may destroy any obstacle coming in the way of achieving the important directive principles of the Constitution. More than this we would not like to say anything regarding this decision because Arts. 14, 19 and 31 are completely excluded by Art. 31C. The provisions to validate laws made to secure the objects in Art. 39 (b) &(c) seem to be the conclusive chapter of a humble beginning with an appeal to the courts to make a doctrinaire and pragmatic approach in such cases.

Mr. Ray rightly argued that in view of the provisions of Art. 31C, the Act squarely falls within the protective umbrella of the said Article inasmuch as in pith and substance, the Act seeks to subserve and secure the objects contained in clauses (b) & (c) of Art. 39 and is, therefore, fully protected from the onslaught of Arts. 14, 19 and 31. To counter the argument of Mr. Ray, S/Shri Ashoke Sen, Venugopal and Sanghi made two fold submissions. In the first place it was argued that the manner in which the transport services had been nationalised under the Act does not fall within the ambit of Art. 39 (b) & (c) as the buses or the vehicles were not an integral part of the policy of nationalisation. Secondly, Mr. Venugopal submitted that if the Act would have nationalised the transport services without taking over the units and the workshops, etc., then the operators could have had something to fall back upon to earn their livelihood. Complete deprivation of livelihood by the Act amounts to a confiscatory piece of legislation and therefore void. Although the arguments are attractive, on closer scrutiny they seem to be without substance. Once it is held that the policy of nationalisation of transport services is valid, which is no doubt an essential service and a type of a State monopoly, any consequence that may follow cannot be taken into consideration; otherwise no social reform can ever be brought about. All schemes of monopoly or nationalisation are meant to serve the public good and individual interests in such cases must yield to the good of the general public. Moreover, on a close examination of the argument it seems to us that it is wholly untenable. The various provisions of the Act clearly provide for a just and reasonable compensation which may not be equal to market value of the units taken over but cannot be said to be illusory or shocking to the conscience of the court.

Although we have found that Art. 31 having been excluded no question of compensation arises, even so it seems to us that the courts while interpreting the policy of total nationalisation and being imbued with a keen sense of the doctrine of justice and fair play have projected the question of compensation in a very limited sense and a restricted extent by holding that the word 'amount' merely means some sort of a reasonable amount which may or may not be adequate in the circumstances. We feel that in view of the explicit and express provisions of Art. 31C the question of compensation does not arise at all and even if it does, the matter is concluded by a 7-Judge Bench decision of this Court in the Karnataka case.

Having dealt with the various aspects of Art. 31C, we now proceed to examine the provisions of the Act in the light of the law laid down by this Court and the aforesaid conclusions reached by us. To being with, the Act gives a detailed preamble describing the ends and objects of the Act. We might mention that in the first paragraph of the preamble, cl. (c) of Art. 39 was not mentioned in the Ordinance but when the Ordinance was replaced by the Act, cl. (c) of Art. 39 was inserted. A perusal of the various clauses of the preamble reveals that the legislation was a purely progressive measure meant not to confiscate the property or destroy the business of the stage carriage operators but to take absolute control of the State transport services by stages in various revenue districts.

As already indicated, the Act was preceded by an Ordinance, containing identical provisions, which was issued on 12.1.1973. The constitutional validity of the Ordinance was challenged in the Madras High Court and while the judgment of the High Court was pending, the Ordinance was replaced by the Act on March 14, 1973. The High Court struck down the Ordinance as being unconstitutional and an interim order was passed by which all the provisions of the Act were stayed, pending appeal to this Court. One time in June 1973, an interim order was passed by this Court by which the transport vehicles not taken over by the State were stayed from being taken over.

Coming to the provisions of the Act, it would be seen that so far as s. 1 is concerned, it is more or less descriptive with the only difference that as far as the Nilgiri District is concerned, the provision says that the policy of nationalisation shall come into force on the 14th of January 1973. In other words, the intention of the Act is to start the nationalisation scheme with the Nilgiri district first and then extend it to other districts as and when it becomes necessary. Clause (iii) of sub-cl. (4) (b) of s. 1 lays down that with respect to stage carriages in any other district in the State, the Act will come into force on such date as the Government may by notification appoint. Section 2 codifies one of the clauses of the preamble by enacting a declaration that the Act is meant for giving effect to the policy of the State towards securing the principles specified in cls. (b) and (c) of Art. 39 of the Constitution and the acquisition in respect of the stage carriages and contract carriages and other properties referred to in section 4. After the Act was passed, by virtue of the decision in the Bharati's case whatever may have been the legal status or position of the directive principles so far as clauses (b) & (c) of Art. 39 are concerned, they were held to be constitutional and any Act passed to enforce these principles clearly fell within the protective umbrella of Art. 31C and was therefore immune from challenge. We have already adverted to this aspect of the matter heretofore.

Sub-s. 2 (a) of s. 2 provides that the acquisition of the stage carriages shall commence with the districts wherein comparatively fewer number of stage carriages were operating. This provision

appears to have been incorporated in order to cause the least possible inconvenience to the bus operators so that the operators of the other districts were the nationalisation of the scheme has not been enforced may make due preparations and alternative arrangements in case the concerned districts are also included in the nationalisation scheme by virtue of the notifications issued from time to time under the Act.

Section 3 only gives the definitions of the various expressions used in the Act and, for the time being, it may not be necessary for us to give a detailed description of cls. (a) to (s) of this section.

Section 4, which is the pivotal section, provides that on and from the date as may be specified by the Government in respect of any stage carriage or contract carriage operator, the permit issued to the operator shall vest in the Government absolutely free from all encumbrances and such carriages or contract carriages, which vest in the Government, shall by force of such vesting be freed and discharged from any trust, obligation and encumbrances, etc. In other words, the intention of the Act was that while nationalising the State transport services the State should not encumber itself with the liabilities that may have been incurred by the bus operators prior to the enforcement of the Act so that the policy of nationalisation may run smoothly and without any obstruction or obstacle. At the same time, s. 4 also provides that any person interested shall have no claim in relation to such carriages or contract carriages taken over by the State in pursuance of the aforesaid nationalisation policy and the claim, if any, would be limited to the amount payable in respect of such stage carriages or contract carriages as provided under the Act. Sub-s. (2) of s. 4 lays down an important safeguard that all rights, title and interests of the stage carriage operators or contract carriage operators, including lands, buildings, workshops and other places, stores, instruments, machinery, tools, plants and other equipments used in connection with the service of these carriages would also vest in the State.

There was a serious controversy regarding this provision and it was vehemently attacked by the counsel for the respondents on the ground that this is a very harsh and strident provision of the Act which completely destroys not only the fundamental right of the operators but also the right to equality under Art. 14. Even if Art. 14 or 19 apply, the vesting of machinery, tools, etc., which were the personal property of the operators meant to carry on their business, would amount to a confiscatory piece of legislation. We shall deal with this aspect of the case when we consider the various contentions advanced before us by counsel for both the parties. At this stage, it is sufficient to remark that even the books of account, registers, etc., would vest in the Government on the issue of the notification and all hire-purchase agreements and transaction, etc, would be deemed to have been withdrawn. The main object in enacting this provision is that when the Government decides to nationalise the transport services or its units, all the means of business should vest in the Government so that after the vesting the Government does not feel itself bound by any commitment or contracts made by the operators which might make the policy abortive as a result of which the scheme of nationalisation itself may run into rough weather.

Sub-s. (3) of s. 4 contains a declaration that the vesting of the stage carriages and other properties shall be deemed to have been acquired for a public purpose, that is to say, acquisition of not only the stage carriages or the contract carriages used by the operators but also their tools, implements and

workshops would be in public interest in order to prevent any legal or constitutional objection being taken against the various moveables which by virtue of the provisions of the Act vest in the Government.

Section 5 contains provisions of a routine nature regarding the submission of accounts, agreements, inspection by Government officers, furnishing of data and details and the like. Another important provision of the Act is section 6 which provides for a reasonable amount of compensation to be paid to the operators on their properties vesting in the Government. Sub-s. (1) of s. 6 says that every person interested shall be entitled to receive such amount as may be determined in the second schedule to the Act, that is to say, where the amount can be fixed by agreement, the same shall be determined in accordance with the agreement. Secondly, where no agreement can be reached, the Government shall appoint as arbitrator a person who is or has been or is qualified for appointment as a District Judge. While appointing an arbitrator, the Government may, if necessary, nominate a person having expert knowledge as to the nature of the acquired property to assist the arbitrator. These two provisions clearly show the attitude of fairness that the Act displayed towards the operators on the vesting of their properties in the Government. Cl. (e) of sub-s. (1) of s. 6 provides that the arbitrator after hearing the dispute and the parties concerned, would determine the amount which appears to him to be just and reasonable and also specify the person or persons who would be entitled to the aforesaid compensation. Clause 1 (f) of s. 6 provides that where there is a dispute of title with respect to the distribution of the amount the same would be apportioned amongst the persons concerned by the Arbitrator. At the same time, to exclude any further disputes during the process of arbitration, cl.

(g) of sub-s. (1) of s. 6 provides that the provisions of the Arbitration Act, 1940 (Central Act X of 1940) shall not apply to the arbitrations made under s. 6.

Sections 7 and 8 contain the usual procedure for filing of claims and the conditions thereon. What is important to be noticed is that the award of the arbitrator is not made final but is subject to an appeal to the High Court.

Section 12 clearly provides that any person aggrieved by an award, may within 30 days from the date of such award prefer an appeal to the High Court. The proviso however empowers the High Court to condone the delay in suitable cases where sufficient cause preventing a claimant from filing the appeal within the time prescribed is made out.

Before going to other provisions we would like to make a reference to the schedule which fixes the scale of compensation and enunciates the principles on the basis of which it is to be awarded to the operators whose stage carriages or contract carriages are taken over by the Government. The table containing the guidelines for payment of compensation may be extracted below:

THE TABLE Period Percentage

1. Not more than six months prior to the 85 notified date

2. More than six months prior to the notified 75 date but not exceeding one year

3. More than one year but not exceeding two years 70

4. More than two years but not exceeding three years 68

5. More than three years but not exceeding four years 67

6. More than four years but not exceeding five years 66-2/3

7. More than five years but not exceeding six years 59

8. More than six years but not exceeding seven years 41

9. More than seven years but not exceeding eight 29 years

10. More than eight years but not exceeding nine 21 years

11. More than nine years but not exceeding ten years 14

12. More than ten years but not exceeding eleven 10 years

13. More than eleven years but not exceeding twelve 7 years

14. More than twelve years but not exceeding thirteen 5 years It would be seen from a perusal of these guidelines that heavy compensation has not been provided for, obviously because if compensation at the market rate is given it would amount to a huge drain on the State treasury which may cause a complete financial breakdown and thus frustrate the very policy of nationalisation. We might mention here that the respondents argued that the rates of compensation were wholly inadequate and absolutely illusory because the arbitrator or the High Court cannot travel beyond the second schedule in assessing the compensation. Mr. S.S. Ray, appearing for the appellant State fairly conceded that the schedule was merely a sort of a guideline which was not exhaustive for determining the quantum of compensation and it may be taken as a concession on behalf of the State that the officers fixing the compensation were entitled to make marginal but not vital departures from the principles of compensation laid down by the Act which seems to be the real intention of the statute in question by providing for a broad-based compensation and allowing the same to be decided by the highest court of justice in the State, viz., the High Court. In the circumstances, it cannot be said that the compensation provided is absolutely illusory or shocking to the conscience of the court which is the only requirement of Art. 31(2).

Then there are other routine provisions contained in s.11 which provide the manner in which the payment of the amount adjudicated by the compensation authorities is to be given. Clause 1A even awards interest at the rate of 6-1/2 per cent per annum on the said amount and certain other options are given to the operators.

Section 13 provides the legal procedure to be adopted in arbitration proceedings and for that purpose the arbitrator would have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908. Section 13 also applies this procedure for summoning and enforcing the attendance of witnesses, requiring discovery and production of documents, reception of evidence on affidavits, requisitioning any public record or a copy thereof from any court or office and issuing commissions for examination of witnesses or documents.

Section 14 however carves out an exception regarding the acquisition of the stage carriages or contract carriages from applying for any new permit or renewal of the existing permit after the acquisition of the stage carriages or contract carriages by the State. It also provides that every application for grant of a new permit or renewal of an existing permit or any appeal or revision relating thereto made or preferred before the 14th January 1973, the date of the enforcement of the Act, and pending before any court or any officer or authority or tribunal shall abate. This appears to us to be a very salutary provision in order to prevent future recurring disputes.

Section 15 provides that the transfer of the stage or contract carriages on or after 14th January, 1973 and before the notified date, is prohibited. It further provides that no person shall after the aforesaid date transfer by way of sale or gift any stage or contract carriage liable to be acquired under the Act.

Section 16 provides for grant of temporary permits to the operators and the circumstances under which and the period for which they could be extended or transferred and as a consequence of the pivotal Section it also provides that no stage or contract carriage operator would be able to obtain any temporary permit in respect of any area or route which has been notified in the Act.

Section 17 prohibits transfers of any stage or contract carriage and enjoins that if any transfer is made, the shall be void and is liable to be acquired by the Government. Section 18 makes a provision for the appointment of administrators for arranging the taking over of the acquired property and for carrying out the duties assigned to them. Section 19 also makes an identical provision for appointment of authorised officers. Section 20 is also an important provision which has been introduced for the purpose of safeguarding the existing staff of the operators for being absorbed in the State Transport Department of the Government, on a given scale, or any corporation or company owned by the Government and for this purpose a number of steps have been detailed in this section.

Section 21 gives the resultant consequences of the policy of nationalisation and prescribes the modes in which the newly acquired stage or contract carriages are to be run by the corporation or the company or the State Transport Department of the Government to which the acquired property is transferred.

Section 25 is also a sort of a routine provision making provisions for issue of orders, notices and the manner of delivering the same etc. Section 26 is an important section which exempts particular types of stage or contract carriages from the operation of the Act, such as stage or contract carriages held by the Central Government, any State Government, any company controlled or owned by the Central Government or any State Government. Section 27 is the usual section which provides

immunity to persons discharging their duties in good faith in pursuance of the Act. Section 28 bars jurisdiction of civil courts in certain matters. Section 29 is a penal provision which provides for punishment for offences committed in violation of the provisions of the Act. Section 30 invests certain officers like administrators, arbitrators, authorised officers, etc., with the status of a public servant within the meaning of s. 21 of the Indian Penal Code. Section 31 is the saving provision which overrides other laws on the passing of the Act. Section 32 is the rule-making power given to the Act.

Before discussing the reasons given by the High Court for striking down the Act we might dispose of an important argument advanced before us for the appellant to the effect that the provisions of this Act are almost in pari materia with the Karnataka Act which formed the subject-matter of a constitution Bench decision of this Court by which the Karnataka Act was upheld. On the basis of the aforesaid decision, it was submitted that the matter stands concluded by a seven-Judge Bench decision of this Court and the appeal should be allowed on this ground alone. On the other hand, the respondents challenged the correctness of the appellant's submission and contended that there are marked and sharp points of difference between the two Acts. We are, however, unable to accept this contention for the reasons given hereafter.

By and the large the provisions of the two Acts appear to be identical in many respects and the general structure and the fundamental features of the two Acts are almost the same. The broad features of the two Acts may be summarised as follows:

(a) both the Acts aim at the policy of nationalisation of transport services (Karnataka Act started with only stage carriages but the Act has also taken within its fold contract carriages),

(b) both the Acts clearly mention that the object of nationalisation was to secure the ends of Art. 39

(b) & (c),

(c) both the Acts seem to convey that being a national policy evolved by the Government itself, it would undoubtedly be in great public interest,

(d) the process of distribution of material resources and the units taken over is more or less the same,

(e) by and large the scope and ambit, the manner and method of formulation of the nationalisation policy are identical, and

(f) the principles of compensation and the machinery provided for determining the same in both the Acts are absolutely similar with minor and negligible variations here and there.

Thus, all the arguments addressed regarding the constitutional validity of the Karnataka Act before this Court apply equally and fully to the present Act and in view of the clear decision of this Court in the Karnataka case very little survives so far as the arguments in this case, advanced on behalf of the respondents, are concerned. On the other hand, three important decisions of this Court, viz, Minerva Mills, Waman Rao and Sanjeev Coke Manufacturing Co. cases, which were given after the Karnataka case, reinforce and reiterate the conclusions reached by this Court in the Karnataka case.

Before examining the reasons given by the High Court we would like to mention certain important facts which have come into existence after the Act was passed by the Tamil Nadu legislature as also after the judgment of the High Court, which fall under three heads:

(1) that by virtue of the Constitution (25th Amendment) Act, 1971 a new article in the shape of Art. 31C was inserted in the Constitution with the avowed object of highlighting the importance of some of the important directive principles contained in part IV of the Constitution. Art. 31C provides that no law made by a legislature in order to secure the principles specified in Art. 39 (b) & (c) shall deemed to be void on the ground that it abridges any of the rights enshrined in Arts. 14, 19 or

31. The said amendment further provides that no law containing a declaration that it has been passed for giving effect to such a policy shall be called in question any court on the ground that is does not give effect to such a policy. There is a proviso to Art. 31C which mandates that before the provisions of the Article can apply, the law must have received the assent of the President of India.

The Tamil Nadu legislature seems to have taken abundant precaution of mentioning the objects contained in Art. 31 by providing clearly is its preamble, as indicated above, that the Act was passed with the intention of giving effect to the principles enunciated in Art. 39 (b) & (c).

(2) that when the new Art. 31C created controversies, 13 Judges of the Supreme Court examined not only the said article but also a number of other provisions of the Constitution in order to decide as to how far the amended provisions affected the basic structure of the Constitution. It may be sufficient to state here for the purpose of this case that so far as Art. 31C is concerned, it was unanimously held by the entire Court that the first part of Art. 31C, introduced by the Constitution 25th Amendment Act, was valid.

(3) Thus, it is manifest that Art. 31C gives a complete protective umbrella to any law passed with the object of achieving the aims and goals of Art. 39 (b) & (c) so as to make it immune from challenge on the ground that the said law violates Arts. 14, 19 or 31. The only condition for application of Art. 31C is that there should be a direct and reasonable nexus between the law and the provisions of Art. 39 (b) & (c), and the reasonableness would be regarding the nexus rather than the law.

In view of the aforesaid developments, most of the conclusions arrived at and the important reasons given by the High Court no longer survive and fade into oblivion. The counsel for the parties also realising this difficulty did not press all the arguments that were advanced before the High Court or accepted it but confined their arguments to the framework and applicability of Art. 39 (b) & (c). In fairness to the High Court, we cannot blame it because the law on Art. 31C was crystallised after the

delivery of its judgment. We, therefore, propose to give a very brief summary of the reasons given by the High Court for striking down the Act laying stress only on the points that survive.

In the first place, the High Court seems to have accepted the argument of Mr. Chari, appearing for the operators, that by virtue of the Act the financiers who were the owners of the stage or contract-carriages would be completely wiped out of their business and therefore Art. 19 was clearly violated. As Art. 31C gives complete immunity from challenge in respect in of any law made to promote objects enshrined in Art. 39 (b)

(c), this argument no longer survives and was wrongly accepted by the High Court.

This now brings us to the nature of compensation awarded to the operators in the Karnataka case which appears to be on all fours with the facts of this case. We must hasten to add that already discussed above, in view of Art. 31C no compensation is necessary as Art. 31 (2) is clearly excluded by Art. 31C but proceeding on the assumption that some sort of compensatory relief may be necessary, we approach this question only as a piece of an alternative argument. To begin with, while dealing with the question of compensation, Untwalia, J., in the Karnataka case clearly pointed out that by virtue of the 25th amendment, the question of compensation may not arise, yet right from Bharati's case uptodate it was has now been held that the amount payable in respect of acquired property should be fixed by the legislature or determined on the basis of principles contained in the law of acquisition and should not be wholly arbitrary or illusory or monstrously undervalued, and in this connection, the learned Judge observed thus:

> "For the purpose of deciding the point which falls for consideration in these appeals, it will suffice to say that still the overwhelming view of the majority of Judges in Kesavanada Bharati's case is that the amount payable for the acquired property either fixed by the legislature or determined on the basis of the principles engrafted in the law of acquisition cannot be wholly arbitrary and illusory. When we say so we are not taking into account the effect of Article 31C inserted in the Constitution by the 25th Amendment (leaving out the invalid part as declared by the majority)."
>
> (Emphasis supplied) The lines underlined by us contain an important emphasis to show that the complexion of the necessity of compensation has completely changed in view of the 25th Amendment by which Art. 31 C was introduced and Untwalia, J.

was, therefore, careful enough not to imply that even after the passing of the 25th Amendment, the question of compensation would still be necessary.

In the same strain, Iyer, J., in that very case observed as follows:

> "Full compensation with a formal difference: The court will not question the 'adequacy' directly, but 'interpret' the amended articles into the same desideratum.
>
> .. .. ..

> The Court could satisfy itself only about the amount not being a monstrous or unprincipled under- value.....
>
> The payment may be substantially less than the market value, the principles may not be all-inclusive, but the court would not, because it could not, upset the taking save where the principles of computation were too arbitrary and illusory to be unconscionably shocking."

Thus, from a perusal of Bharati's as also Karnataka cases the following principles for assessing compensation after the amendment of Art. 31 (2) by substitution of the word 'amount', may be summarised:

> (1) that compensation should not be arbitrary or illusory, (2) that the amount fixed as compensation should not be unprincipled, (3) that the compensation sought to be paid should be so arbitrary or illusory as to be unconscionably shocking, and (4) it is not necessary that the compensation must represent the actual market value or be adequate, for even if compensation is inadequate but not illusory, the requirement of Art. 31 (2) is fully complied with.

Relevant sections of the Act, on the question of compensation are completely in accordance with the principles enunciated above and hence the argument of the counsel for the respondent that the compensation is wholly inadequate or illusory must be overruled.

Applying these principles to the provisions of compensation, discussed above, it seems to us that the facts of this case are identical with those of the Karnataka case. The principles on which compensation was awarded in that case have been bodily lifted and placed in the present Act. The main features of the Act relating to compensation may be summarised thus:

> (1) A regular method and the manner in which compensation is to be assessed is to be found in the second schedule to the Act, (2) we have already mentioned that Mr. Ray conceded during the course of arguments that the said schedule is not exhaustive but it is open to the arbitrator or the High Court to make marginal changes as and when necessary, (3) the factors and circumstances to be taken into consideration vide section 6 and the second schedule clearly spell out that if compensation is allowed on the basis of those factors it cannot be said to be arbitrary, illusory or monstrously unconscionable.

It is true that the compensation awarded may not represent the market value or perhaps may be even inadequate but that is now not the test laid down in the amended Art. 31 (2). On this ground, therefore, the constitutionality of the Act cannot be challenged.

All said and done, it was contended by the respondents that at least the taking over of both the stage and the contract carriages alongwith the workshops, etc amounts to a very harsh provision so to be confiscatory. We have already dealt with this argument. In addition to what we have stated, it may

be observed that once a policy of nationalisation is in public interest and for public good, some losses, some damages, some prejudices and some harsh consequences are bound to follow but this does not mean that the aforesaid considerations should result in a stalemate of the policy of State monopoly or nationalisation otherwise the country cannot move forwarded even an inch from where it was when out Constitution came into force. Gajendragadkar, J., in Akadasi Pabhan's case (supra) had pointed out that these are matters of high policy and the courts cannot go behind the policy unless the policy itself is patently unconstitutional or arbitrary.

We have found that the compensation awarded or the principles contained in the various sections of the Act are not illusory but amount to a just and sufficient compensation to the operators whose properties are taken away. In fact, it was to meet such situations that Art. 31C was introduced so that any obstacle resulting in evil consequence to the operators or persons whose properties are taken over is completely removed. For these reasons, we reject this argument of the respondents' counsel as being totally ill-founded.

It was then argued for the respondents that the nationalisation of the entire transport services along with the vehicles and workshops, etc., cannot be in public interest because it would not serve any public good. In the same token, it was argued that the manner and method in which the nationalisation policy has been enacted in the Act does not per se secure twin objects of Art. 39 (b) & (c) for two reasons-

> (1) that taking over of the vehicles, tools, implements and the workshops, etc., is not contemplated by Art. 39 (b) as they are moveable properties and therefore not material resources, (2) that the measure, if translated into action, does not prevent the concentration of wealth in the hands of a few and hence Art. 39 (c) is not attracted at all.

We shall deal with these arguments one by one. Coming to the first argument that the nationalisation is not in public interest, the said argument is to be stated only to be rejected as it has been clearly pointed out in the Karnataka case that a nationalisation policy of this type is undoubtedly in public interest.

In Black's Law Dictionary (Special Deluxe fifth edition) at page 1107 the words 'public purpose' have been defined thus:

> "The term is synonymous with governmental purpose ..... A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and content-
>
> ment of all the inhabitants or residents within a given political division, as, for example, a state, the sovereign powers of which are exercised to promote such public purpose or public business."

This matter is concluded by a decision of this Court in the Karnataka case where it was held that the purpose of a public body to run a public transport service is undoubtedly in public interest and in this connection Iyer, J., observed thus:

> The purpose of a public body to run a public transport service for the benefit of the people, operating it in a responsible manner through exercise of public power which is controlled and controllable by society through its organs like the legislature and, at times, even the court, is manifestly a public purpose."

And Untwalia, J., speaking for the Court made the following observations:

> "Why can't moveables be acquired for commercial purposes if the exigencies of the situation so require, A particular commercial activity of the State may itself be for a public purpose."

In the instant case also, it would appear that the State has nationalised the stage and contract carriages for the purpose of providing a general and expeditious transport at reasonable rates to the members of the public and in view of the observations referred to above, we can come to no other conclusion except that such a policy is undoubtedly in public interest and involves an important public purpose.

As a limb of this argument, the High Court held that Art. 39 would not be applicable in the present case. As extracted above, Untwalia, J., in the Karnataka case summarily rejected this very argument and further pointed out that where a legislature thought of preventing misuse in the running of the vehicles by private operators and in order to provide better facilities to the transport passengers or to the general public, acquisition of vehicles or for that matter the rights and interests in the contract carriage operators alongwith their land, buildings, workshops, etc., would always be permissible. We cannot conceive of a greater public interest in respect of a policy than where the legislature expressly intends to promoter or secure the objects of Art. 39 (b) & (c) particularly when, as indicated above, the said two clauses have been conferred a special status and given an impregnable protection by Art. 31C itself. We, therefore, fully agree with the view taken by this Court in the Karnataka case and hold that the nationalisation of the transport services is undoubtedly in public interest.

As regards the application of Art. 39 (b) & (c), the High Court on the basis of previous decisions of this Court held that-

> (1) the objects of Art. 39 (b) & (c) have not been subserved, and (2) Art. 39 has no application to moveable properties and since the vehicles taken over by the State under the Act were moveable properties, Art. 39 was not applicable in the present case.

With due respect, this view is not correct and proceeds on a misconception of the law and interpretation of the words 'material resources' as mentioned in Art. 39 (b). In fact, Art. 39 (b) does

not mention either moveable or immovable property. The actual expression used is 'material resources of the community'. Material resources as enshrined in Art. 39 (b) are wide enough to cover not only natural or physical resources but also moveable or immovable properties. Black's Law Dictionary (supra) defined the word 'resources' thus:

> "Money or any property that can be converted to meet needs; means of raising money or supplies; capabilities of raising wealth or to supply necessary wants."

(p.1178) The mere fact that the resources are material will make to difference in the concept of the word 'resources'. In Stroud's Judicial Dictionary (Vol.3) at page 1634, the word 'material' is defined thus:

> "Materials, tools, or implements, to be used by such artificer in his trade or occupation, if such artificer be employed in mining;....wooden props or "sprags" though neither "tools or implements" were "materials"
>
> within these words.....'Material' includes a painter's bucket of distemper and brush."

In Webster's Third New International Dictionary at page 1934 the word 'resources' has been defined thus:

> 'available means (as of a country or business): computable wealth (as in money, property.)"

In words and Phrases (Permanent Edition), Vol. 37A, the word 'Resources' has been defined at page 16 thus:

> "Resources included products of farm, forest, manufacture, art, education, etc... The "resources" of a county include its land, timber, coal, crops, improvements, railways, factories and everything that goes to make up its wealth or to render it desirable." In the Karnataka case, Iyer, J., observed thus: "And material resources of the community in the context of re-ordering the national economy embraces all the national wealth, not merely natural resources, all the private and public sources of meeting material needs, not merely public possessions."

The question as to the connotation of 'material resources, as mentioned in Art. 39 (b) & (c) came up for consideration in a recent constitution-Bench decision of this Court in Sanjeev Coke Manufacturing Co's case (supra) where one of us (Reddy, J.) made the following observations:

> "The next question for consideration is whether the Coking Coal Mines (Nationalisation) Act is a law directing the policy of the State towards securing "that the ownership and control of the material resources of the community are so distributed as best to subserve the common good. Coal is, of course, one of the most important known sources of energy, and, therefore, a vital national resource.

> Shri Sen argued that material resources had first to be acquired by the State before they could be distributed. A law providing for acquisition was not a law for distribution. We are unable to appreciate the submission of Shri Sen."

The above decision therefore furnishes a complete answer to the reason given by the High Court or the arguments advanced before us by the counsel for the respondents on the question as to the nature and character of material resources.

Summarising the arguments relating to compensation and the prejudice caused to the operators, and the nationalisation policy contained in the Act, the position seems to be as follows:

In the first place, as indicated above, once Art. 31C applies, the net of the protective umbrella is so wide as to cut at the root of even Art. 31 (2) which alone survives after Bharati's case. We have already pointed out that if the State chooses to monopolise trades in certain essential commodities or properties, for the purposes mentioned in Art. 39 (b) & (c), Art. 31 (2) would be completely excluded, otherwise no State monopoly is ever possible because a reasonable amount which may have to be paid as compensation may completely drain out the financial resources of the State or the public exchequer to such an extent that the noble endeavour to monopolise a particular trade would become almost impossible, as a logical result of which the purposes sanctified in Art. 39 (b) & (c) would also become incapable of implementation. It was for these reasons that Parliament thought it advisable to protect the objects contained in Art, 39 (b) & (c) from the purview of Art. 31 (2).

Secondly, Art. 31 (2) by virtue of the 25th amendment has knocked out the word 'compensation' and has substituted the word 'amount' which gives ample discretion to the State to fix a reasonable amount if the property of an individual is taken over for public purpose. In the instant case, as an intense social purpose which is indicated by the Constitution, is involved even an apology of compensation would be sufficient to comply with the conditions required by Art. 31 (2). Even so, in the instant case, as pointed out above, there is a clear mode of compensation provided which is to be assessed by an arbitrator and is subject to judicial scrutiny by the highest court in the State, namely, the High Court. The schedule which contains the principles of compensation is wide enough to ensure a fairly reasonable compensation to be given to the operators whose vehicles are taken over. The court in such matters cannot interfere with the amount so fixed unless it is shown to the court's satisfaction that the amount fixed is so monstrous as to shock its conscience. Having regard to the provisions in the schedule and the manner and mode of grant of compensation, we are unable to hold that the compensation provided for is wholly inadequate or absolutely monstrous.

Thus, so far as this aspect of the matter is concerned, two conclusions broadly emerge:-

> (1) that in view of the express provisions of Art. 31C which excludes Art. 31 (2) also where a property is acquired in public interest for the avowed purpose giving effect to the principles enshrined in Art. 39 (b) & (c), no compensation is necessary and Art. 31 (2) is out of the harm's way, and (2) that even if the law provides for compensation, the courts cannot go into the details or adequacy of the compensation and it is sufficient for the State to prove that the compensation was reasonable and

not monstrous or illusory so as to shock the conscience of the court.

The persons whose properties are taken over cannot be heard to complain that the compensation awarded to them should be according to market value which, if conceded, would defeat the very purpose and objective of Art. 39 (b) &

(c). In the instant case, both the conditions mentioned above are fully satisfied having regard to the provisions of the Act.

The last contention raised by the respondents was that the conditions or objects mentioned in Art. 39 (b) & (c) are not subserved by the nationalisation policy codified by the Statute because there is no distribution at all in the sense that the property taken over is distributed to various member of the community for their benefit. Moreover, the members of the community have been deprived of the services rendered to them by the operators under permits issued by the transport authority. So far as this argument is concerned, it is based on a serious misconception of understanding the real position. The word 'distribution' used in Art. 39 (b) must be broadly construed so that a court may give full and comprehensive effect to statutory intent contained in Art. 39 (b). A narrow construction of the word 'distribution' might defeat or frustrate the very object which the Article seeks to subserve. In Black's Law dictionary (supra) the word 'distribution' has been defined thus:

> "The giving out or division among a number, sharing or parcelling out, allotting, dispensing, apportioning."
>
> (p. 426) Similarly, Webster's Third International dictionary at page 660 defines 'distribution' thus:
>
> "the position, placement, or arrangement (as of a mass or the members of a group); the disposition or arrangement in rational groups or classes: CLASSIFICATION the accurate distribution of several rare zoological specimens; delivery or conveyance (as of newspapers or goods) to the members of a group (the distribution of telephone directories to consumers) in charge of company sales and distribution; a device, mechanism, or system by which something is distributed (as from a main source); the marketing or merchandising of commodities."
>
> In 'Family Word Finder' published by Readers Digest the word 'distribution' has been defined at page 237 thus:
>
> "dissemination, scattering, spreading, circulation, grouping, organisation, apportionment, allotment, allocation, division."
>
> It is obvious, therefore, that in view of the vast range of transactions contemplated by the word 'distribution' as mentioned in the dictionaries referred to above, it will not be correct to construe the word 'distribution' in a purely literal sense so as to mean only division of a particular kind or to particular persons. The words, apportionment,

> allotment, allocation, classification, clearly fall within the broad sweep of the word 'distribution'. So construed, the word 'distribution' as used in Art.39(b) will include various facets, aspects, methods and terminology of a broad-based concept of distribution. In other words, the word 'distribution' does not merely mean that property of one should be taken over and distributed to others like land reforms where the lands from the big landlords are taken away and given to landless labourers or for that matter the various urban and rural ceiling Acts.

That is only one of the modes of distribution but not the only mode. In the instant case, as we have already pointed out, distribution is undoubtedly there though in a different shape. So far as the operators were concerned they were mainly motivated by making huge profits and were most reluctant to go to villages or places where the passenger traffic is low or the track is difficult. This naturally caused serious inconvenience to the poor members of the community who were denied the facility of visiting the towns or other areas in a transport. By nationalising the transport as also the units the vehicles would be able to go to the farthest corner of the State and penetrate as deep as possible and provided better and quicker and more efficacious facilities. This would undoubtedly be a distribution for the common good of the people and would be clearly covered by cl.(b) of Art.39.

In the Karnataka case, the word 'distribution' clearly fell for interpretation and Iyer, J. made the following observations:

> "The key word is 'distribute' and the genius of the article, if we may say so, cannot but be given full play as it fulfils the basic purpose of restructuring the economic order. Each word in the article has a strategic role and the whole article is a social mission. It embraces the entire material resources of the community. Its task is to distribute such resources. Its goal is so to undertake distribution as best to subserve the common good. It reorganizes by such distribution the ownership and control.....

Furthermore, in the Sanjeev Coke Manufacturing Co.'s case, Reddy,J., observed thus:

> "To 'distribute', even in its simple dictionary meaning, is to 'allot, to divide into classes or into groups' and 'distribution' embraces 'arrangement, classification, placement, disposition, apportionment, the way in which items, a quantity, or the like, is divided or apportioned; the system of dispersing goods throughout a community."

The very pertinent expression used by Reddy,J. is that those economists who believe in bringing about a social revolution would hardly find any difficulty in treating nationalisation of transport as a distributive process for the good of the community. This is exactly what the Act seems to achieve in securing the objects contained in Art.39(b)&(c) of the Constitution.

By nationalising the transport services the transport business which was run by a handful of capitalists would prevent the concentration of wealth in the hands of a few and would therefore benefit the community at large.

This aspect of the matter was also argued in the Karnataka case but strongly repelled, were Untwalia, J. pointed out that taking over the transport services was undoubtedly for the common good of the people and was not meant for augmenting the revenue of the State because the profits, if any, made by the services would go to accomplish projects for the betterment of the community and made the following observations:

> "The legislature thought that to prevent such misuse and to provide for better facilities to transport passengers and to the general public it is necessary to acquire the vehicles, permits and all rights, title and interest of the contract carriage operators in or over lands, buildings, workshops and other places and all stores, instruments, machinery, tools, plants, etc., as mentioned in sub-section (2) of section 4 of the Act."

Thus, in short, the position seems to be that by virtue of the nationalisation policy the twin objects of Art.39(b)&(c) are fully secured.

Finally, it was argued by the respondents that even if the transport services were nationalised, there was absolutely no rationale behind the taking over of the vehicles of the operators, some of whom were running on hire-purchase basis. This argument has no force because once it is recognised that for the purposes mentioned in Art.39(b)&(c) the entire service including its units, workshops, etc, could be taken over on payment of some compensation, the fact that the vehicles should be spared is only an argument of desperation.

These are, therefore, the important contentions advanced before us by the respondents and the reasons given by the High Court in striking down the Act. We are of the opinion that in fact this case is clearly covered by the decision of the Karnataka case as reinforced by the later decision of Sanjeev Coke Manufacturing Co.'s case and all the contentions raised before us by the respondents (operators) fail. The Act is, therefore, held to be constitutionally valid in all respects. We allow the appeals, dismiss the writ petitions, set aside the judgment of the High Court and hold that the Act is constitutionally valid.

However, as some portions of the Act, in view of the time-lag, may have become out of date, a few consequential amendments may have to be made. Mr. Ray, appearing for the appellant, had also conceded that so far as the question of compensation was concerned, it was open to the arbitrator or the compensation authority not to confine itself strictly to the yardstick contained in the second schedule to the Act but they can make marginal changes as the circumstances require.

As a appellants have succeeded in the appeals, we revoke the interim order passed by this Court on June 26, 1973 directing the appellants to pay Rs. 100 (Rupees one hundred) per day to the respondents. In the peculiar circumstances of this case we make no order as to costs.

N.V.K. Appeals allowed and Petitions dismissed.