

(1995) 09 AHC CK 0137**Allahabad High Court****Case No:** C.M.W.P. No. 25960 of 1995

Khem Chandar Chaurasia

APPELLANT

Vs

District Judge and Others

RESPONDENT

Date of Decision: Sept. 28, 1995**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 80(3), 94

Hon'ble Judges: S.R. Singh, J**Bench:** Single Bench**Advocate:** A.D. Saunders, for the Appellant;**Final Decision:** Dismissed

Judgement

S.R. Singh, J.

The petitioner is an operator of route known as Lalitpur/Dhaurrah-via-Masaura-Ghatwar-Pali-Bela Behat Jakhlaun. It appears that the Respondent No. 4 who is an operator of another route known as Lalitpur-Dhauri Sagar-via-Masauri-Mehroni-Madwara applied for extension of his route. Regional Transport Authority, Jhansi, it is alleged, proceeded to grant extension of the route by including a portion of Lalitpur-Pali-via-Ghatwar which extension, according to the Petitioner, would completely overlap the route on which he has been operating. Aggrieved, the petitioner filed a suit being suit No. 289 of 1994 in the Court of Munsif, Lalitpur for perpetual injunction restraining the Defendants to the suit from granting any extension by including the route Lalitpur-Pali-via-Ghatwar in their meeting which was scheduled to be held on 7.12.1994 or in any other adjourned meeting. An application for temporary injunction was also moved. Learned Civil Judge by his order dated 9.12.1994 restrained the Defendants from granting any extension in respect of the concerned route. The order aforesaid passed by the learned Civil Judge was taken to the appellate court. Learned District Judge allowed the appeal and set aside the order passed by learned Civil Judge on the ground that in view of Section 94 of the Motor Vehicles Act, 1988, the civil court had no

jurisdiction to grant Injunction.

2. Section 94 of the Motor Vehicles Act, 1988 provides in no uncertain language that no civil court shall have jurisdiction to entertain any question relating to grant of a permit under this Act and no injunction in respect of any action taken or to be taken by the duly constituted authorities under this Act with regard to the grant of a permit shall be entertainable by any civil court, Sri A.D. Saunders, learned Counsel appearing for the Petitioner, however, urged that variation in the conditions of any permit by inclusion of a new route or routes or a new area or by altering the route or routes or area covered by it is not tantamount "to the grant of permit" within the meaning of Section 94 of the Act. The submission, in my opinion, is untenable. The expression "grant of permit under this Act" is of wide amplitude and Includes the grant of a permit by varying the conditions of an existing permit in the manner Indicated in Section 80(3) of the Act which clearly provides that an application to vary the conditions of any permit, other than a temporary permit, by inclusion of a new route or routes or a new area or by altering the route or routes or area covered by It, or in the case of a stage carriage by Increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit shall be treated as an application for the grant of a new permit.

3. The Division Bench of this Court in Bhan Singh Vs. Regional Transport Authority and Others . holding that an application for varying the conditions of a permit cannot be termed to be an application for grant of permit in that it is treated to be an application for grant of permit only for the purposes of applying the procedure prescribed for grant of new permit, has no application with regard to construction of Section 94 of the Act. In my opinion, varying conditions of any permit other than a temporary permit by the inclusion of new route or routes or a new area or by altering (he route or routes or area covered by it. or in the case of a stage carriage permit by increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit is tantamount to grant of a permit within the meaning of Section 94 of the Act except where the case is covered by the first proviso to Sub-section (3) of Section 80 of the Motor Vehicles Act, 1988, according to which an application to increase the frequency of the service without any increase in the number of vehicles made by the holder of stage carriage permit who provides the only service on any route is to be treated as an application for grant of a new permit. It was not the case of Mr. Saunders that the present was a case covered by the first proviso to Sub-section (3) of Section 80 of the Motor Vehicles Act. The view taken by the learned District Judge does not suffer from any infirmity or manifest illegality. The Jurisdiction of a civil court to grant any injunction in respect of any action taken or to be taken by the duly constituted authorities under the Act with regard to the grant of a permit is clearly barred and the civil court is expressly inhibited from entertaining any question relating to the grant of permit. The question relating to variation in the

conditions of a permit granted under the Act is a question relating to grant of permit within the meaning of Section 94 of the Act.

4. The writ petition is devoid of merit and it is accordingly dismissed in limine.