

(1993) 03 MP CK 0007
Madhya Pradesh High Court
Case No: M.P. No. 11 of 1993

Dinesh Kumar Varma

APPELLANT

Vs

State Transport Appellate
Tribunal and Others

RESPONDENT

Date of Decision: March 16, 1993

Acts Referred:

- Constitution of India, 1950 - Article 14, 19, 19(6), 39
- General Clauses Act, 1897 - Section 6
- Motor Vehicles Act, 1939 - Section 42(1), 46, 57(3), 58(2), 62
- Motor Vehicles Act, 1988 - Section 2, 2(31), 2(32), 217, 217(2)

Citation: (1993) JLJ 574

Hon'ble Judges: T.N. Singh, J; K.M. Pandey, J

Bench: Division Bench

Advocate: Arvind Dudawat, for the Appellant; J.P. Gupta, for Respondent No. 3, D.V. Nigudkar and R.D. Jain, amicus curiae, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

T.N. Singh, J.

Two private bus-operators have locked horns in this legal battle but we also heard Shri D.V. Nigudkar, Standing Counsel for the M.P. State Road Transport Corporation, because of the general importance of the question mooted for our decision in this matter. Shri R.D. Jain consented to act as amicus curiae and we also heard him and Petitioner's counsel, Shri Arvind Dudawat. Oral hearing was concluded on 15.2.1993 but Shri J.P. Gupta, learned Counsel appearing for the main contestant Respondent No. 3, also filed written argument on 18.2.1993.

2. On facts there is little dispute and indeed only few facts are to be stated to decide the important question of law on which counsel addressed us extensively. The Petitioner is owner of only one vehicle of 1992 model for which he holds stage carriage permit No. 237/92 for the route Pichore to Rajgarh valid upto 19.11.1997. While the Petitioner is a new-comer in the trade and his permit is a fresh grant, Respondent No. 3 is holding stage- carriage permit No. P. St.S.147/70 for the same route which was a permit "renewed" under Motor Vehicle Act, 1939, for short, "Old Act, and was valid upto 17.11.1991. He made an application u/s 81 of the Motor Vehicles Act, 1988, for short "New Act," for renewal of the said permit. Admittedly, the said Respondent holds Anr. nine stage-carriage permits and it is also averred that in the names of his sons he holds 15 other stage-carriage permits. In the meeting held on 16.9.1992 the Regional Transport Authority, Bhopal, for short "R.T.A.", heard all applications for fresh permits and for renewals for the route in question and by its order passed on 17.11.1992 the said Authority rejected the renewal application of Respondent No. 3 and granted to the Petitioner a fresh stage-carriage permit for the said route for the period from 20.11.1992 to 19.11.1997.

3. An appeal was taken by Respondent No. 3 to the State Transport Appellate Tribunal, Madhya Pradesh, Gwalior, wherein the Petitioner was impleaded as Respondent No. 2, challenging the R.T.A.'s decision aforesaid. The appeal was allowed by the said Tribunal vide its order dated 10.12.1992 renewing the permit of Respondent No. 3 and also confirming at the same time grant of the fresh permit to the Petitioner on the condition that the R.T.A. shall refix timing for the Petitioner. Reliance was placed on a decision of the Apex Court in [M/s. Gurcharan Singh Baldev Singh Vs. Yashwant Singh and others](#), in rendering the order impugned before us in this matter. It is submitted by Shri Dudawat that in Gurucharan Singh's case the decision was rendered on the interpretation only of Sub-sections (2) and (4) of Section 217 of the New Act and there was no occasion for their Lordships to examine the scope and purport of Section 71(4) of the said Act though that really has crucial relevance to the entitlement of third Respondent inasmuch as it negates expressly his claim. Indeed, it is also contended that the main ground on which the R.T.A. refused to grant renewal of the permit of Respondent No. 3 was the legislative command of the said Section 71(4), restricting its power to be exercised, whether for issuing a fresh permit or renewing an existing permit.

4. Before we examine rival contentions based on Gurucharan Singh's case (supra) we propose to extract first relevant portions on the provisions of the New Act, and also of the old Act, which is repealed:

New Act:

71. Procedure of Regional Transport Authority in considering application for stage carriage permit. - (1) A Regional Transport Authority shall, while considering an application for a stage carriage permit, have regard to the objects of this Act:

(2) ...

(3)(a) ...

(b) ...

(c) ...

(d) After reserving such number of permits as it referred to in Clause (c), the Regional Transport Authority shall in considering an application have regard to the following matters, namely:

(i) ...

(ii) ...

(iii) ...

Provided that, other conditions being equal, preference shall be given to applications for permits from-

(i) State Transport undertakings:

(ii) Co-operative societies registered or deemed to have been registered under any enactment for the time being in force; or

(iii) Ex-Serviceman.

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

(5) In computing the number of permits to be granted under Sub-section (4), the permits held by an applicant in the name of any other person and the permits held by any company of which such applicant is a director shall also be taken into account

81. Duration and renewal of permits.-

(1) A permit other than a temporary permit issued u/s 87 or a special permit issued under Sub-section (8) of Section 88 shall be effective without renewal for a period of five years:

...

(2) A permit may be renewed on an application made not less than fifteen days before the date of its expiry.

(3) ...

(4) The Regional Transport Authority or the State Transport Authority, as the case may be, may reject an application for the renewal of a permit on one or more of the

following grounds, namely:

(a) ...

(b) ...

217. Repeal and savings .--(1)

(2) Notwithstanding the repeal by Sub-section (1) of the repealed enactments. --

(a) any notification, rule, regulation, order or notice issued or any appointment or declaration made or exemption granted, or any confiscation made, or any penalty or fine imposed, any forfeiture cancellation or any other thing done, or any other action taken under the repealed enactments, and in force immediately before such commencement shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been issued, made, granted, done or taken under the corresponding provision of this Act;

(b) any certificate of fitness of registration or licence or permit issued or granted under the repealed enactments shall continue to have effect after such commencement under the same conditions and for the same period as if this Act had not been passed;

(c) ...

(d) ...

(e) ...

(f) ...

(3) ...

(4) The mention of particular matters, in this section shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals.

Old Act

58. Duration and renewal of permits

(1) (a) A stage carriage permit or a contract carriage permit other than a temporary permit issued u/s 62 shall be effective without renewal for such period, not less than three years and not more than five years, as the Regional Transport Authority may specify in the permit.

(b) ...

(2) A permit may be renewed on an application made and disposed of as if it were an application for a permit:

...

Provide...(further) that, other conditions being equal, an application for renewal shall be given preference over new application for permits.

5. Obviously, the controversy surfacing in this matter has two nodal points relating precisely to interpretation of Section 71(4) and Section 217(2)(b) of the New Act. On behalf of the contesting Respondent, Shri Gupta has contended that Sub-Section 2 (b) read with Sub-section (4) of Section 217 saves the right of renewal of the permit of Respondent No. 3 granted under the Old Act and his further contention is that Section 71(4) does not impair that right because the provision thereof are applicable to case of grant of a fresh permit and not renewal of a permit, old or new. He has urged strenuously that under the Old Act and also New Act, a distinction is made between two rights, to obtain a fresh permit and renewal of a permit and that distinction is to be kept in view in construing Section 71(4). He further contended that in terms of Section 217 of the new Act, read with Section 6 of the General Clauses Act, the right of renewal attached to the old permit is kept alive under the New Act because that is an "accrued" right and is expressly saved. He accordingly, submitted that the Tribunal had validly renewed the permit and also that it had no other option except to direct, consequently, the R.T.A. to change the timing of the permit granted to the Petitioner because the timing of the Respondent in virtue of renewal of his permit had to prevail. Indeed Shri, Gupta placed implicit reliance on Gurucharan Singh's case (supra) to submit that Petitioner's entitlement is fully established on the basis of that decision and on that ground also there is no scope for interference with the impugned order of the Tribunal.

6. Sarvashri Nigudkar and R.D. Jain, on the other hand contended, and indeed, Petitioner's counsel Shri Arvind Dudawat joined them in the chorus, to the effect that Gurucharan Singh's decision does not avail the contesting Respondent. It is an authority for the proposition which it decided and its ratio cannot be extended to the instant case inasmuch as the scope of the embargo contemplated u/s 71(4) was neither agitated nor decided in that case. It is next contended that the Legislature did not predicate a contra-constitutional as also an anomalous position by contemplating under the new Act two classes of operators, one class operating in virtue of fresh permits upto 5 only in number issued under the New Act and Anr. class operating in virtue of old permits (unlimited in number) renewed under the new Act with right of renewal perennially surviving with respect thereto. It is also contended that the object of the Legislature in formulating the new policy of liberalisation of transport business must be kept in view and that the implications and ramifications of the new policy are to be properly comprehended as reflected in the various provisions of the new Act. It is submitted indeed relying on Apex Court's recent decision in [Mithilesh Garg, Vs. Union of India and others etc. etc.](#), that the new policy is meant to subserve the object of encouraging healthy competition and that the contesting Respondent cannot complain that Section 71(4) of the new Act imposes any constitutionally barred unreasonable restriction on his right to carry on transport business by curtailing his entitlement to operate only 5 buses on the

strength of 5 permits only in all (new and old/renewed) to which he is entitled thereunder. It is further contended that the new policy aims also, by opening the field of competition to new entrants, at curbing monopoly in the business of motor transport to fulfil the objects of the Directive Principles contained in Part IV of the Constitution. On the interpretation of Section 217, it is submitted, the legislative intention is clear that life of the permit (fresh or renewed) issued under the old Act is allowed merely to ebb away in the ordinary course to save such a permit from sudden death. Beyond that no further right is created as would defeat the object of the new policy contemplated under the new Act. Section 71(4) of the New Act carries a positive mandate impairing the power to grant or issue a permit, whether a fresh or a renewed one; and that the contemplated prohibition afflicts the right of all applicants alike, irrespective of the fact that in any particular case application is made for renewal of a permit issued under the old Act in virtue of right in that regard being saved u/s 217 (new).

7. It is necessary to expose the basic fallacy of Shri Gupta's contention. The right to apply for grant of a fresh permit or renewal of an existing permit, issued whether under the old or new Act, is a statutory right, it is not a contractual right. The right of renewal of a permit cannot be equated to a right in the nature of renewal clause in lease because there is no property in a permit issued under the Act (old or new) as held by this Court's Full Bench in [Sindh Transport Co. Vs. State Transport Authority, M.P. Gwalior and Others](#), by relying on Apex Court's decision in [Brij Mohan Parihar Vs. M.P. State Road Transport Corporation and Others](#), A permit, whether fresh or renewed, is neither heritable nor transferable except to the extent contemplated u/s 81 (new). Jurisprudential, the permit partakes the character of a privilege because it confers merely a particular benefit and advantage on the grantee to be enjoyed by him though its extent and its manner of enjoyment is statutorily specified; it does not vest any "title" in the grantee in respect of the contemplated benefit or advantage. See, in this connection Ramprakash AIR 1992 MP 151 . This position is indeed reflected in old Section 42(1) and new Section 66(1) contemplating "necessity" of a "permit" as a mandatory requirement to be complied with by the owner of a transport vehicle for plying the same at a public place. A renewed permit cannot and does not enjoy, in our opinion, a better status than a fresh permit because both achieve the same object of conferring the same benefit or advantage on its holder contemplated under old Section 42(1) and new Section 66(1). As has been succinctly pointed out by their Lordships in [V.C.K. Bus Service Ltd. Vs. The Regional Transport Authority, Coimbatore](#), the renewal does survive the original, it falls automatically when the permit granted vanishes, as in a case where it is set aside by the superior authority. A renewed permit is certainly not an imperishable commodity. To be more candid and precise, the statutory right secured under both old and new Act is the right to make "application" for fresh permit or for renewal of an existing permit and for disposal of the said application in accordance with the statutory provisions, whether of the old or new Act. However, the position of a

"State Transport Undertaking" defined in Section 4(41) of the New Act is different, as it is invested with a Constitutionally sanctioned monopoly to operate "road transport service" in accordance with the provisions of Chapter VI of the New Act, corresponding to Chapter IV-A of the old Act.

8. Article 19(6) of the Constitution permits additionally, reasonable restriction to be imposed in the interest of general public on the freedom of a citizen to carry on any occupation, trade or business and undoubtedly the provisions of the old and new Act contemplating the requirement of a "permit" (whether fresh or renewed) are relatable to that Constitutional authority. To curb monopolistic activity of such private operators who try to act as the big shark, in the interest of general public for ordaining an egalitarian society fulfilling the mandate of Directive Principles of the Constitution the new Act has legitimately made a deliberate effort of which notice is taken in *Mithilesh Garg (supra)*. Indeed, the position which emerges from a casual comparison of the relevant provisions of the new and old Acts is that the so-called "right" of renewal has undergone a distinctive qualitative change in the new Act. The old right contemplated under the old Act of renewal, except to the extent saved by new Section 217(2), is hit and killed by new Section 71(4) using Constitutional force and authority derived from Articles 19(6) and 14 to prevent monopolistic tendency and establish, on the basis of equality, a single class of operators of equal entitlement. [Hans Raj Kehar and Others Vs. State of Uttar Pradesh and Others](#), nor *Mithilesh Garg (supra)* on which Shri Gupta also relied, impaires this view.

9. Power is not denied to Legislature to fix ceiling on permits in those two decisions. Judicial support for statutory measure of such a type is readily available. See, in this connection, [State of Tamil Nadu and Others Vs. L. Abu Kavur Bai and Others](#), decided by the Constitution Bench, up-holding the validity of Tamilnadu Stage Carriage and Contract Carriages (Acquisition) Act, 1973 which the High Court had struck down on the ground of the same infringing Articles 14 and 19 of the Constitution. Section 4 of the said Act vested in the State Government (albeit on payment of compensation) free from all incumbrances the permits issued to the private operators along with all rights, title and interest of such operators in their vehicles, lands, buildings, work-shops etc. used in connection with the services rendered by those vehicles. A substantial nexus was found between the provisions of said Act and Articles 39(b) and (c) of Part IV of the Constitution. Obviously, the reverse proposition canvassed by Shri Gupta cannot therefore claim any legal standing so as to allow operation by two classes of private operators under the new Act of which one class being subjected to hostile discrimination with the entitlement in respect of permits to be lawfully issued to them being cut down in number. Not only for such classification there exists no valid basis, no reasonable nexus even can be established between the classification suggested and the object of the new Act which deliberately aims at curbing monopolisation. Reference we deem appropriate also to the decision of the *Sri Rama Vilas Service (AIR 1956 SC 107)* wherein refusal of a fresh permit and renewal also of an existing permit on the ground that

application would have become monopolist was held valid.

10. We find, however, difficult to accept the proposition canvassed by Shri R.D. Jain on the interpretation of Sub-sections (31) and (32) of Section 2 of the New Act, that the Act totally snuffs out life of a permit issued under the new Act ("under this Act") can only have legal tender. Renewal of a permit issued under the old Act is saved, by Section 217(2)(b) to the extent that is not barred by Section 71(4) of the new Act because power in that regard can be exercised only in terms of Section 71(1) of the said Act. Section 70 and 80 have clearly done away with the requirement of Section 57(3) and 58 (2) of the Old Act of application of stage carriage permits, for fresh permit and also for renewal, to be "published" and for submission of "representations" and hearing thereon. But, importantly, Section 71(1) expressly mandates that in considering any application for stage carriage permit the Authority shall "have regard to the object of this Act" (emphasis added) and some of the specified objects are enumerated in Sub-sections (3) and (4). Preferences contemplated under the proviso to Section 71(3) apply equally to applications for fresh permits and for renewals under the new Act instead of the old preference in respect of renewal contemplated under old Section 58(2) proviso. On the one hand, monopolistic tendency of private operators is checked by contemplating u/s 71(4) the maximum entitlement separately with deliberate care for an individual and company, on the other hand renewals made under the new Act of existing permits (used under old or new Act) are established by envisaging specific circumstances when renewal can be refused, thereby circumscribing Authority's discretionary power ("may reject") contemplated u/s 81(4). It is clear that right of renewal under the new Act is of a different content, character and complexion; it supplants the existing right. Such being the statutorily contemplated position Shri Gupta's contention that under the both, new and old, Acts a distinction is maintained between a fresh and renewed permit loses all significance. His reliance, in support of his contention, on the decision cited is obviously of no relevance. To wit; Shivchand, AIR 1984 ibid at page 9, Shersingh, ibid at page 200; and K.S.RTC ibid at page 79.

11. We are unable to accept Shri Gupta's contention that Section 81 (new) is a complete Code in so far as entitlement of renewal and power of the Authority in that regard is concerned. Merely because Sub-section (4) contemplated cases in which the Authority "may reject an application for renewal" on the grounds enumerated thereunder, it is not to be assumed that the provision deals with entitlement for renewal. That provision concerns merely power of the Authority to reject the application for renewal. The source of power to grant renewal is to be traced to Section 71 because it is only thereunder that "applications" are "considered" for a stage carriage permit for reaching a decision on the applicant's entitlement to be granted the permit prayed, whether fresh or renewed. Sub-sections (2) and (3) of Section 81 contemplates merely period of limitation for application for renewal and they have nothing to do with the question of entitlement. That is to be decided in

terms of the provisions of Section 71 because only such permits (whether fresh or renewed) issued by the Authority which do not defeat, the "objects" of the new Act can have legal tender as contemplated u/s 71(1). Indeed, there is no other provision dealing with either expressly or exclusively with grant of a renewed permit. Even if Sub-section (4) of Section 71 does not refer expressly to a permit which is "renewed", they will not make any difference. Section 81 does not prescribe the procedure for consideration of the " application" for renewal of the existing permit; such an application, if it is to be allowed, must not defeat the "objects" enumerated in Section 71 because thereunder only is contemplated consideration of all types of applications for a stage carriage permit. Neither Sub-sections (1), (4) and (5) of Section 71, nor indeed, the provisions of Sub-sections (2),(3) and (4) of Section 81 are to be construed in a narrow or pedantic sense as will defeat the object and purpose of the Act and the new policy it promotes. They are to be harmonised and subjected equally to the norms of purposive interpretation of universal application. See, in this connection [Girdhari Lal and Sons Vs. Balbir Nath Mathur and Others, ; Utkal Contractors and Joinery Pvt. Ltd. and Others Vs. State of Orissa and Others,](#) and the House of Lords" decision in Shah v. Barnet; 1983 1 All. E.R 226. We have already pointed out that a "renewed" permit and a "fresh" permit both fulfil equally the requirement of Section 66(1) from which emerge a clue to the meaning of the word "permit" used in Section 71, in both Sub-sections (1) and (4) because the statutory definition contained in Clause (31) of Section 2 is not of much help. In Sheikh Gulfan AIR 1975 SC 1839 it was held that in deciding the true scope and effect of the relevant words, the context in which the words occur, the object of the statute in which the provision is included and the policy underlying the statute are relevant and material.

12. We turn now to the interpretation of Section 217(2) and impact of that on Sub-section (4). Expressly and categorically, in terms of Clause (b) of Sub-section (2) of Section 217, the "permit" (whether freshly granted or renewed) issued under the repealed Act of 1939, is kept alive for the remaining period of its validity contemplated under the said permit. Beyond that, no right with respect to the said permit is saved and we do not think if the expression "as if this Act had not been passed" can have any other meaning. The two expressions preceding it, "same conditions" and "same period" clearly manifest that with regard to the "period" and the "conditions" specified in the permit the having is contemplated. However, there may be cases such as of Gurcharan Singh (supra), when the "Notification" referred to in Sub-section (2)(a) of Section 217 is published before the new Act came into force when there will be saving also with respect to the right of the "application" duly notified to be considered after that was processed in accordance with the law under which the application was made. Gurucharan Singh is an authority only for that proposition as will appear clear from the following passage from para 3 of the decision at p. 183 of the Report:

This right accrued to Appellant as he had already applied for renewal and his application had been notified. The legal machinery was set in motion by him. He, therefore, had a right to get his application for renewal processed and considered in accordance with 1939 Act. It would be too artificial to say that it was not a right or it had not accrued under 1939 Act. Therefore, in our opinion, by virtue of Section 6(c) of the General Clauses Act the right of the Appellant to get his application considered and decided in accordance with law was saved by Sub-section (4) of Section 217 of Motor Vehicles Act.

(Emphasis added).

At para 5 of the Report their Lordships also observed: "Does the new Act indicate any intention to the contrary? No express provision debarring renewal of permits, applied for, under Old Act could be pointed out." Whether to such an application also the provisions of Section 71(4) would apply and consideration thereof must enter the decision-making process of the Authority dealing with the application was neither posed nor decided.

13. It is, therefore, rightly contended, relying on [Goodyear India Ltd., Gedore \(India\) Pvt. Ltd., Kelvinator of India Ltd. and the Food Corporation of India and Another Vs. State of Haryana and Another](#), that Gurucharan Singh can be no authority for a matter which remotely or even logically follows from it; it would be a precedent on the question argued and not on question which was not argued. Indeed, their Lordship were mindful of the scope and ambit of Section 6 of the General Clauses Act contemplating application thereof to cases, "Unless a different intention appears" manifested in the repealed Act and they made observations, noticed above, in that regard. However, when application is made under the new Act itself, there can hardly be any scope to invoke Section 6 as the application is not made in terms of any "right accrued" under the old Act, but the application is made under the new Act itself and revival of a dead right is not contemplated u/s 6. This position was examined by this Court in [Shivchand Amolakchand Bus Operator, Shivpuri Vs. State Transport Appellate Tribunal, Gwalior and Others](#), and that decision was followed by Anr. Division Bench in Yashwant Singh Chhawra, 1991 (I) MPJR 487 , reversed in Gurucharan Singh by their Lordships in appeal. However, Shivchand still holds the field as that decision, though relied on in Yeshwant Singh Chhawra, has not been faulted by their Lordships. At para 9 of the Report in Shivchand this Court took the view that revival of a lost or dead right is explicitly barred by Clause (a) of Section 6, General Clauses Act. It was observed at para 11 of the Report, relying on [Prahlad Das Gupta Vs. Taneja Bus Service, Sheopur and Others](#), that even under the old Act provisions contained in Section 46 et seq., though of seminal significance, were aimed at excluding creation of monopolies in favour of any particular private operator. Thus, if the so-called "right of renewal" even under the old Act suffered from that disability, the application made in exercise of that right under the new Act, will be subject to the power contemplated u/s 71(4) of the new Act because exercise

of that power will not produce a different result.

14. The conclusion reached supports the view we have taken hereinbefore on the scope of the so-called "right to renewal" under the old and new Acts. On the term "right accrued", used in Section 6(c), General Clauses Act, there is illuminating discussion in their Lordships' decision in [Bansidhar and Others Vs. State of Rajasthan and Others](#), and at para 14, at p. 1621 of the Report, they observed that the distinction between what is and what is not a right preserved by Section 6 of the General Clauses Act is often one of great fineness, and they added, "what is unaffected by the repeal is a right "acquired" or "accrued" under the repealed statute and not "a mere hope or expectation" of acquiring a right or liberty to apply for a right". It will indeed be presumptions on our part to improve on that statement of law made after detailed examination of a large number of decisions of their Lordships own Court and also of the Privy Council in the case of Director of Public Works v. Ho Po Sang, (1961 2 All E.R. 721 Before us, counsel have also cited an earlier decision of Privy Council in Reynolds v. Attorney-General for Nova Scotia, 1896 AC. 240. That was a case of renewal of a licence to work a coal mine and a similar question arose because of the change in law when it was held that at the date of the application for renewal, the power to grant it was gone, for even if the amending Act were so construed as not to interfere with vested rights, the Appellants possessed a privilege and not an accrued right in reference to the renewal sought.

15. On the interpretation of Section 58 old and new Section 71(4) and 217 in the context of provisions of Section 6 of the General Clauses Act, the same view on similar facts is expressed in [K. Rajendran Vs. K.S. Krishnadas and Others](#), although the Division Bench dealing with the case treated the matter differently, without reference to the constitutional position.

16. In the instant case, the period of the old permit issued under the old Act in 1970 expired after the new Act came into force when power to renew the permit under the old Act was not available to be exercised. Indeed, Section 6, General Clauses Act itself allows the new power under the new Act to be exercised because the so-called old right of renewal is supplanted by a new right as discussed above and the "contrary intention" of the Legislature in creating the new right and creating also new power in respect to that right is therefore to be allowed to operate in terms of the said provision. It is to be noted also that the application was made under the new Act and thereby power for renewal of the permit was invoked under the new Act. On the date of application for renewal filed by Respondent No. 3, R.T.A. Bhopal found its power to grant renewal impaired by Section 71(4) on account of prohibition contemplated thereunder. Admittedly, the Petitioner was found holding 10 stage-carriage permits (including the one expired) and R.T.A. could not therefore renew the expired permit because of the statutory embargo.

17. In the result, the petition succeeds and is allowed. The order passed in appeal by Respondent No. 1, State Transport Appellate Tribunal, Gwalior on 30.12.1992 renewing the permit No. P. St.S. 147/70 of Respondent No. 3 for the route Pichore to Rajgarh is quashed and the order of R.T.A. dated 17.11.1992 is restored. However, we leave the parties to bear their own costs in this Court.

18. Before parting with the records we would like to observe that counsel who had addressed us did a commendable task, but we would like to put on records our deep appreciation of the assistance rendered by Corporation's counsel, Shri Nigudkar and also Shri R.D. Jain, who acted as amicus curiae at our request.