

(1961) 04 AP CK 0001

Andhra Pradesh High Court

Case No: Writ Petitions No"s. 1069, 1070 of 1959 and 66, 144, 145, 148, 200, 201 and 220 of 1960

Kati Satyanarayana Rao

APPELLANT

Vs

Regional Transport Authority
Krishna and Another

RESPONDENT

Date of Decision: April 21, 1961

Acts Referred:

- Constitution of India, 1950 - Article 226, 32

Citation: AIR 1962 AP 417

Hon'ble Judges: P. Chandra Reddi, C.J; Satyanarayana Raju, J

Bench: Division Bench

Advocate: N. Rajeswara Rao, M.B. Ramasarma, J.A. Narasimham, M. Venkateswarlu, G. Suryanarayana, G.S.R. Anjaneyulu, M. Dwaraknath, Smt. K. Amareswari and M.S.R. Sastry all, for the Appellant; P. Ramachandra Reddi, Third Government Pleader for 1st respondent in all writ petitions, P.R. Ramachandra Rao and I. Panduranga Rao, for 2nd Respondent in all writ petitions, for the Respondent

Final Decision: Dismissed

Judgement

Satyanarayana Raju, J.

In this batch of petitions, filed under Article 226 of the Constitution, identical questions arise for decision, and it will be convenient to dispose of them in a common judgment. Some of the individual petitions also raise other subsidiary questions and we will deal with them separately.

2. The petitioners were operators of stage carriage in the District of Krishna. They had stage carriage permits for the various routes granted to them some years ago. When the terms of their latest permits were about to expire, they applied for renewal as required under law. Their applications were notified under S. 57 and they were granted temporary permits. In the meantime, steps were taken by the State

Government to formulate a scheme under Chapter IV-A of the Motor Vehicles Act, which was finally approved and published in the Andhra Pradesh Gazette, dated January, 9 1958. The State Government also established a Road Transport Corporation, called the Andhra Pradesh Road Transport Corporation, under the Road Transport Corporation Act, 1950 (Act LXI of 1950) with effect from January, 11, 1958. This corporation was empowered to take over the management of the erstwhile Road Transport Department which was implementing the schemes of nationalisation of bus transport under a phased programme. The transport operators, who were plying their vehicles on various routes, in the Krishna District filed an application before the Supreme Court under Article 32 of the Constitution for the enforcement of their fundamental right to carry on their business of motor transport and for quashing the scheme as approved, on various grounds. Their Lordships of the Supreme Court rejected most of the objections raised by the operators except in regard to the objection pertaining to the hearing given by the Secretary in charge of the Transport Department. This resulted in the quashing of the order of the Government approving the scheme and directing the Government to forbear from taking over any of the routes, on which the operators were plying their buses.

Thereafter, on December, 19, 1958, the Chief Minister of Andhra Pradesh heard the objections of the operators and the corporation and approved the scheme which was duly published in the Official Gazette on December, 22, 1958. On the following day, the corporation applied to the Road Transport Authority for the issue of permits for plying their stage carriages on certain routes, and for eliminating the permits granted to the private operators. The Regional Transport Authority thereupon passed an order rendering ineffective certain of the permits. The routes on which the petitioners were operating their buses were included in the order of the Regional Transport Authority. While so, the operators filed petitions in this Court under Article 226 of the Constitution for quashing the abovementioned orders. This Court dismissed their petitions on March 5, 1959. Against the said judgment, the operators preferred appeals to the Supreme Court.

3. To complete the narrative, pending final disposal of their appeals, the operators moved the Supreme Court for stay of the further operation of the scheme. On April 3, 1959, their Lordships of the Supreme Court passed an order which is so far as it is material, reads as follows :

That pending the hearing and final disposal of the appeals abovementioned by this Court the State of Andhra Pradesh be and is hereby restrained from rendering ineffective the petitioners' permits which have not already been rendered ineffective from any day prior to 3rd April, 1959, under the scheme of Road Transport Services of Andhra Pradesh Road Transport No. T. 6/10/5/ dater the 5th November, 1957, as approved by the Government of Andhra Pradesh in G. O. Ms. No. 2948 Home (Transport-I) Department dated the 22nd December, 1958".

4. The Government thereupon filed an application before the Supreme Court for vacating the above order. On May, 21, 1959, the Supreme Court made the following order :

That where the permits expire after the 3rd April, 1959 the permit-holders, i. e., the appellants herein may apply for renewal of such permits and the 2nd respondent i.e., the Andhra Pradesh State Road Transport Corporation may also apply for issue of permits in respect thereof to the Transport Authority and the said Transport Authority to deal with and dispose of such applications in accordance with law and that the order of this Court dated the 3-4-1959 mentioned above shall not limit in any manner the performance of any duty by the said Transport Authority.

5. On June 18, 1959, the Secretary, Regional Transport Authority, Krishna, informed the operators that a resolution to refuse the entertainment of the applications for renewal of their permits in implementation of the scheme of Road Transport Services of Andhra Pradesh Road Transport would be taken up for consideration at a meeting of the Regional Transport Authority, Krishna, to be held on June 29, 1959. It was also notified that the cancellation of temporary permits issued in respect of some of the petitioners' buses, in implementation of the scheme would also be taken up for consideration at the said meeting.

6. After receiving these notices, the operators again moved the Supreme Court seeking the following directions :

(1) To restrain the Regional Transport Authority from taking into consideration the steps mentioned in the notice.

2. To give effect to the order of the Supreme Court by entertaining the applications for renewal and pass the necessary orders in accordance with the said directions.

On June 26, 1959, the Supreme Court passed the following Order:

These objections which are being taken in this application should be raised before the Regional Transport Authority which is the proper body to consider them. No orders on this application.

7. After hearing the objections raised by the operators, the Regional Transport Authority, by an order dated June 30, 1959, refused to entertain the applications of some of the present petitions for renewal of their permits. By a further resolution dated September, 1959, the Authority refused, under Sec. 58-F (2)(A) the renewal of the permits of the other petitioners. It only remains to note that the appeals preferred by the operators were dismissed by the Supreme Court on August 21, 1959. Vide [Gullapalli Nageswara Rao etc. Vs. The State of Andhra Pradesh and Others,](#)

8. In the majority of the present petitions, the operators seek the issue of a writ of certiorari to quash the order of the Regional Transport Authority and to give a

direction to the said Authority to make an endorsement of renewal on their permits for a period of three years in accordance with S. 58 of the Motor Vehicles Act, read with R. 185 of the Madras Motor Vehicle Rules. In some of the petitions, there is a further prayer for directing the corporation to pay them compensation.

9. The substantial questions raised before us by the operators may be summarised thus: No orders were passed by the Regional Transport Authority, within the period prescribed, on the applications for renewal of the permits made by the operators. Therefore, the permits must be deemed to have been automatically renewed for a period of three years by the operation of R. 185 of the Motor Vehicles Rules, read with Sec. 58 of the Motor Vehicles Act. The Regional Transport Authority had no alternative but to renew the permits of the petitioners, and the orders passed by that authority refusing to entertain the petitioners' applications for renewal must be set aside, and a direction should be issued to the said authority to make formal endorsements on their permits renewing them for a minimum period of three years as required by Sec. 58.

10. On behalf of the State, it is contended that pending consideration of the applications for renewal the Regional Transport Authority passed orders granting temporary permits that Chapter IV A enables the State Transport Undertaking, subject to the provisions of the scheme, to exclude private operators; that the provisions of that Chapter have an overriding effect on the provisions contained in Chapter IV, in which Chapter occurs Sec. 58, and R. 185 framed under the powers vested in the Government under Chapter IV that the applications for renewal were refused under Sec. 68-F(2)(a) and that there was, in fact, no cancellation" of the permits under Sec. 68-F(2)(b); that there was no violation of any of the provisions of the Act; and that the petitioners are not therefore entitled to any relief.

11. Before considering the respective contentions of the parties, it will be convenient to refer to the material provisions of the Act. The Motor Vehicles Act, 1939, (hereinafter referred to as "the Act") was originally enacted by the Central Legislature in exercise of its power under the Government of India Act, 1935, to consolidate and amend the law relating to Motor Vehicles. The Act was subsequently amended from time to time both by Parliament as also by the State Legislatures. The Motor Vehicles (Amendment) Act, 1956 (100 of 1956) has made extensive amendments in the original Act. The provisions of the amendment Act came into force on February 16, 1957. The questions raised in these petitions turn on the provisions of the original Act as amended by Act 100 of 1956. We are here concerned only with Chapter IV and Chapter IV-A of the Act. Chapter IV comprises sections 42 to 68, and Chapter IV-A which was in its entirety introduced; by the Amendment Act, consists of Secs. 68-A to 68-1.

12. Section 57 provides the procedure in applying for and granting of permits. Then comes S. 58, which deals with duration of permits and is in these terms:

58(1)(a). A stage-carriage permit or a contract carriage permit other than a temporary permit issued under Sec. 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) A private carrier's permit or a Public carrier's permit other than a temporary permit issued under Sec. 62 shall be effective without renewal for a period of five years.

2. A permit may be renewed on an application made 2nd disposed of as if it were an application for a permit;

Provided that the application for the renewal of a permit shall be made-

a) in the case of a stage carriage permit or public carrier's permit, not less than sixty days before the date of the expiry; and

b) in any other case, not less than thirty days before the date of its expiry;

Provided further that, other conditions being equal, an application for renewal shall be given preference over new applications for permits.

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13. Section 62 enables the Regional Transport Authority to grant permits, without following the procedure prescribed under Sec. 57, to be effective for a limited period not in any case to exceed four months" time authorising the use of a transport vehicle temporarily pending decision on an application for the renewal of a permit.

14. At this stage, it is necessary to refer to R. 185 of the Madras Motor Vehicle Rules, framed by the Government of Madras, which were adopted by this State. The rule reads :

If an application for the renewal of a permit has been made in accordance with these rules and the prescribed fee paid by the prescribed date, the permit shall continue to be effective until orders are passed on the application or until the expiry of three months from the date of receipt of the application whichever is earlier. If orders on application are not passed within three months from the date of receipt of the application the permit-holder shall be entitled to have the permit renewed by the Transport Authority for the period specified in the application or for one year whichever is less and the transport authority shall call upon the permit-holder to produce the registration certificate or certificates and part B or Parts A and B of the permit as the case may be, and endorse the renewal in parts A and B of the permit accordingly and return them in the permit holder.

15. We now come to Chapter IV-A. Section 63-A defines a "State Transport undertaking" for the purpose of the Chapter to mean an undertaking providing road transport service, carried on, among others, by a State Government. Section 68-B

provides that the provisions of Chapter IV-A shall have effect notwithstanding anything to the contrary contained in Chapter IV. Section 68-C is in these terms :

Where any State transport undertaking is of opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road transport service, it is necessary in the public interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking, whether to the exclusion, complete or partial, of other persons or otherwise, the State transport undertaking may prepare a scheme giving particulars of the nature of the services proposed to be rendered, the area or route proposed to be covered and such other particulars respecting thereto as may be prescribed, and shall cause every such scheme to be published in the Official Gazette and also in such other manner as the State Government may direct.

16. Section 68-D provides for the preferring of objections to the scheme published under Sec. 68-C, consideration of such objections, and final approval of the scheme by the State Government. The material provisions for the purpose of the present cases are Secs. 68-F and 68-G and it is necessary to set out the terms of those sections in extenso.

68-F(1) Where, in pursuance of an approved scheme, any state transport undertaking applies in the manner specified in Chapter IV for a stage carriage permit or a public carrier's permit or a contract carriage permit in respect of a notified area or notified route, the Regional Transport Authority shall issue such permit to the State Transport undertaking, notwithstanding anything to the contrary contained in Chapter IV.

2. For the purpose of giving effect to the approved scheme in respect of a notified area or notified route the Regional Transport Authority may, by order

- a) refuse to entertain any application for the renewal of any other permit;
- b) cancel any existing permit;
- c) modify the terms of any existing permit so as to
 - i) render the permit ineffective beyond a specified date;
 - ii) reduce the number of vehicles authorised to be used under the permit;
 - iii) curtail the area or route covered by the permit in so far as such permit relates to be notified area or notified route.

3. For the removal of doubts, it is hereby declared that no appeal shall lie against any action taken, or order passed, by the Regional Transport Authority under sub-sec. (1) or sub-sec. (2).

68-G(1) Where, in exercise of the powers conferred by clause (b) or clause (c) of sub-sec. (2) of Sec. 68-F; any existing permit is cancelled or the terms thereof are modified, there shall be paid by the State transport undertaking to the holder of the permit compensation the amount of which shall be determined in accordance with the provisions of sub-sec. (4) or sub-sec. (5) as the case may be.

2. Notwithstanding anything contained in sub-sec. (1) no compensation shall be payable on account of the cancellation of any existing permit or any modification of the terms thereof when a permit for an alternative route or area in lieu thereof has been offered by the Regional Transport Authority and accepted by the holder the permit.

3. For the removal of doubts, it is hereby declared that no compensation shall be payable on account of the refusal to renew a permit under clause (a) of sub-sec. (2) of Sec. 68-F.....

17. Section 67-H provides that the amount of compensation shall be paid within a specified period. Section 68-I empowers the State Government to make rules for the purpose of carrying into effect the provisions of Chapter IV-A.

18. Now, it is argued by the petitioners that by virtue of Rule 185 of the Madras Motor Vehicles Rules, read with Sec. 58 of the Act, the petitioners have acquired a right to have their permits renewed for a minimum period of three years, by reason of the State Transport authority not having passed orders on the applications for renewal of their permits within three months from the date of receipt of those applications. On a reading of the material provisions of Chapter IV and Chapter IVA it is manifest that an operator of a stage carriage, who holds a permit, may apply for renewal not less than sixty days before the date of its expiry, and an application for renewal will be disposed of as if it were an application for a permit, and he will be given preferential treatment the other conditions being equal. Section 58 does not prescribe any time limit for disposal of the application for renewal of a permit. But the requirement that the application shall be filed not less than sixty days before the date of the expiry, contained in S. 57, read with S. 62 of the Act, and the provisions that pending an application for renewal of a permit, a temporary permit could be granted for a period of four months, and the further provision made in Sec. 62 that such temporary permit shall not be given more than once, indicate that the application should be disposed of within the period of four months.

Rule 185 has, however, prescribed a period of three months within which the transport authority shall pass orders on the application. The consequence of the transport authority not passing orders within the specified period of three months is that the permit-holder shall have the permit renewed by the Transport Authority for the period mentioned in the application or for one year, whichever is less. But Sec. 68-F(1) which is contained in Chapter IV-A, is intended to give the Government a special advantage. When the Government chooses to proceed under that chapter, it

becomes entitled as a matter of right to the necessary permits. Under Chapter IV the Government does not have any such advantage. It has to compete with other applicants, to secure permits to be able to run its buses. Where a scheme has been approved, if the State Transport undertaking applies for a permit, the Regional Transport Authority shall issue the permit to it and for the purpose of giving effect to the approved scheme, the said authority is authorised to refuse to entertain an application for renewal of any other permit or cancel or modify any existing permit. If the Regional Transport Authority cancels or modifies a permit compensation is payable to the operator affected. It is necessary to add that Chapter IV-A is not merely regulatory of the procedure for carrying on the business of road transport by the State; it enables the State Transport undertaking subject to the provisions of the scheme, to exclude private operators and to obtain a monopoly, complete or partial, In carrying on road transport business in a notified area or notified routes (Vide [H.C. Narayanappa and Others Vs. The State of Mysore and Others,](#) .

19. The question is: Whether the Regional Transport Authority exceeded its power in refusing to entertain the applications for renewal. Under Sec. 68-F the Regional Transport Authority is bound to issue a permit to a state transport undertaking if it applies in pursuance of an approved scheme. Under sub-sec. (2) of Sec. 68-F the Regional Transport Authority is authorised for the purpose of giving effect to an approved scheme to refuse to entertain an application for renewal of any other permit. This power is exercisable when it is brought to the notice of the authority that there is an approved scheme and, to give effect to it the application for renewal cannot be entertained.

20. It may be initially stated that none of the petitioners is in fact desirous that his permit should now be renewed for the purpose of enabling them to ply their stage carriages. Their Vehicles were long ago withdrawn from the routes and replaced by the buses belonging to the corporation, which is operating the transport services on the various routes for which the petitioner had formerly permits. The only relief the petitioners now seeking is that the Regional Transport Authority should be directed to make formal endorsements on their permits that they were renewed for a period of three years, and according to them they are legally entitled to this relief on a combined reading of Sec. 58, read with R. 185 of the Madras Motor Vehicles Rules. There is no attempt at disguising the fact that the petitioners seek this direction with a view to enable them to claim compensation.

21. Now, it is beyond dispute that the orders passed by the Regional Transport Authority purport to have been made under clause (2) (a) of Sec. 68-F and not under clause (2) (b). The consequence of the Transport Authority making an order under Sec. 68-F(2)(b) would be that the operators can make a claim for compensation under Sec. 68-G, whereas if the order is one under clause (2) (a), there can be no such claim for compensation.

22. As already stated, the scheme as finally approved by the State was published on December 22, 1958. This is a material date for the purpose of considering the common contentions raised in these petitions.

23. Chapter IV-A inserted in the main Act, came into force on February 16, 1957. It is to be noted that Sec. 68-B gives an overriding effect, for the section in explicit terms provides that

the provisions of this chapter and the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in Chapter IV of this Act or in any other law for the time being in force or in any instrument having effect by virtue of any such law.

Chapter IV-A is an independent and self-contained Code, and Sec. 68-B specifically provides that the provisions of this chapter shall have effect notwithstanding anything contained in Chapter IV of the Act. Therefore, when once a scheme is approved, the provisions of Chapter IV-A make it obligatory on the statutory authority, viz., the Regional Transport Authority, to grant permits to the corporation and cancel the existing permits or modify the terms thereof. The result of the implementation of a statutory scheme would be to render the provisions of Chapter IV ineffective.

24. The contention of the learned counsel for the operators is that Sec. 58, which contemplates the renewal of permits for stage carriages and R. 185, made under the power vested in the Government under that chapter, must be read along with Sec. 68-F and Sec. 68-G.

25. The provisions of Sec. 68-F(2) contemplate two situations (1) refusal of an application for renewal of a permit, and (2) cancellation of an existing permit. That the petitioners have no existing permits is beyond controversy. What all is stated by them is that by means of a fiction their permits must be deemed to have been renewed. It is argued that no orders having been passed within the period specified in that behalf, the permits must be deemed to have been renewed for a minimum period of three years as provided by Sec. 58. The short answer to this contention is that as the scheme of nationalisation was approved and published under Chapter IV-A on December 22, 1958, there was no question of the renewal of the permits as contemplated in Sec. 58 or R. 185. An application for renewal can only be for the purposes of enabling the operator to ply his stage carriage on a particular route. Admittedly that purpose could in no manner be achieved by reason of the implementation of the scheme of nationalisation. So much is conceded. But what is stated is that there could be a renewal for the purpose of enabling the petitioners to claim compensation. It would be fallacious to say that a permit could be renewed not for the purpose of enabling the operator to ply his stage carriage but for the purpose of enabling him to claim compensation. It is indisputable that the applications made by the operators for renewal of their permits were refused to be

entertained. Those applications were, in fact, notified as provided by Sec. 57(3), but by reason of the supervening circumstances, namely, the pendency of the appeals preferred by the operators in the Supreme Court against the judgment of this Court, the applications could not be disposed of within the period specified in R. 185 the operators were granted temporary permits as provided by Sec. 62 of the Act. Those temporary permits were granted to the operators pending disposal of their applications for renewal. It is therefore manifest that even the terms of Rule 185 have been satisfied because what that rule contemplates is the passing of an order within the period specified. That apart, it is open to serious doubt as to whether R. 185 made by the Madras Government under the powers vested in them by reason of the provisions of Chapter IV could be operative after the introduction of Chapter IV-A by means of the Amendment Act 100 of 1956. While R. 185 speaks of an automatic renewal for a period of one year. Section 58 contemplates renewal for a minimum period of three years and a maximum period of five years. It is therefore, clear that R. 185 is at variance with Sec. 58. It is argued that by applying the rule of harmonious construction, the minimum period of three years and the maximum period of five years provided by Sec. 58 should be substituted for the period of one year provided by R. 185. We are not persuaded that this contention is supported by any principle or authority. The real difficulty in accepting the contentions urged on behalf of the petitioners is that there can be no renewal of the permits which have admittedly expired, long prior to the filing of these petitions by means of the application of a fiction. The orders passed by the Regional Transport Authority were, in truth and fact, passed under Sec. 68-F(2)(a) and not under Sec. 68-F(2)(b) and it is difficult to accede to the contention of the petitioners that endorsements of renewal can now be made on the expired permits extending their life for a further period of three years.

26. As already stated, Sec. 68-G which provides for payment of compensation, contemplates the cancellation of an existing permit. There being no existing, permits in favour of the petitioners, the provisions of that section can have no application.

27. Learned Counsel for the petitioners have relied upon the decision of the Supreme Court in [Y. Mahaboob Sheriff and sons, Y. Mahaboob Sheriff and Others and S. Shamsoddin and Others Vs. Mysore State Transport Authority, Bangalore and Others](#), . This decision only establishes the principle that Sec. 58 casts a duty on the statutory authority which grants a renewal, to specify a period, which is not less than three years and more than five years." Their Lordships pointed out that

it could hardly be the intention of the Legislature that the duration of the renewal should be left entirely to the discretion of the Regional Transport Authority, particularly when the legislature took care to fix the duration of the permit itself.

28. Their Lordships of the Supreme Court held that the duration of a permit under Sec. 58(1)(a) being not less than three years and not more than five years, the same

applies to a renewal. On this conclusion, their Lordships, issued a writ directing the Transport Authority to carry out the duty laid on it by granting the renewal for the statutory period.

29. The other case cited by the petitioners is [V.C.K. Bus Service Ltd. Vs. The Regional Transport Authority, Coimbatore](#), That decision is authority for the proposition that the renewal of a permit is a continuation of the permit previously granted and that when the grant of a permit is set aside by a higher authority, the renewal thereof also stands automatically set aside and does not continue to subsist for the period for which it was renewed. Neither of these decisions has any relevance for the purposes of the present discussion.

30. Now, with regard to the individual cases, we may state that in W. P. No. 148 of 1960, the application for renewal was made on March 21, 1959. The petitioners were served with notice of refusal on April 18, 1959. In W. P. No. 200 of 1960, the application for renewal was made on April 27, 1959. The petitioners were served with interim notice of refusal on July 14, 1959 and the final refusal was intimated to them on August 24, 1959. In these two cases the general ground urged on behalf of the operators is not available.

31. There remains W. P. No. 1070 of 1959 where the learned Counsel for the petitioners has advanced a separate contention. The facts of this case may be briefly stated. The permits of the petitioners were valid upto 2nd March, 1959. The applications for renewal were made on January, 8, 1959. Thus there was a delay of eight days in the filing of the applications. The Regional Transport Authority dismissed the applications on February, 18, 1959, on the ground that they were out of time. Against the orders of dismissal, the petitioners preferred appeals to the State Transport Authority. Those appeals were dismissed on March 18, 1959. The petitioners then preferred revisions to the State Government under Sec. 64-A of the Act. The revisions were allowed on June 27, 1959 and the operative part of the Government's order reads as follows:

Inasmuch as the delay is only 8 days the Government do not consider it proper to reject the renewal applications in view of Sec. 58(3) of the Motor Vehicles Act as amended by Act 100 of 1956. They accordingly set aside the proceedings of the Secretary, State Transport Authority in L. Dis. No. 8498/A2/59 dated 18-3-1959 as improper and direct the Regional Transport Authority to renew the permits".

32. After due notice to the petitioners, the Regional Transport Authority refused their applications for renewal by its resolution dated September 4, 1959.

33. It is contended that the Government themselves having in their order, dated 27th June, 1959, directed the Regional Transport Authority to renew the permits, that authority had no jurisdiction to refuse to entertain the applications. It may be mentioned that the revision petition filed by the petitioners to the Government questioned the legality and propriety of the order of the R. T. A. which rejected the

petitioner"s applications for renewal on the ground that they were filed out of time. The Government held that the delay in filing of the applications should be condoned. It is, therefore, manifest that the only order that the Government could pass was with regard to the condonation of the delay. It was not within the competence of the Government to grant the renewals having regard to the limited nature and scope of the revision petition before them. It is obvious that there was no jurisdiction in the Government to grant a renewal of the permit. On a fair reading of the order, the conclusion is irresistible that the order could not have really meant what it said. The Government could not very well arrogate to themselves the functions of the Regional Transport Authority and their order could only mean that they intended to condone the delay of eight days in the presentation of the application for renewal. In this view, we are able to accede to the contention of the petitioners that the order of the Government itself granted the renewal.

34. Learned Counsel for the petitioners relied upon a decision of the Supreme Court in [The Bhopal Sugar Industries Ltd. Vs. The Income Tax Officer, Bhopal](#),) as supporting his contention. There the facts were these : The income tax appellate Tribunal, on appeal from the order of the Appellate Assistant Commissioner, gave certain directions to the Income Tax Officer to arrive at the market value of sugarcane grown by the assessee and grant relief, if necessary on such computation. The Income Tax Officer, did not try out the directions and passed orders on a different basis. Their Lordships pointed out that there was a failure on the part of the Officer to carry out the legal duty imposed on him and such failure was destructive of a basic principle of justice and that, therefore, a writ of mandamus, should be issued ex debito justitiae to compel the Income Tax Officer to carry out the directions given to him by the Appellate Tribunal. This case is clearly distinguishable. There the matter in respect of which the appellate Tribunal gave directions was admittedly within the scope of its jurisdiction and the Income Tax Officer was clearly under a duty to carry out its directions. Such is not the case here. We must, therefore, conclude that the principle of the above decision cannot apply to the facts of this case.

35. Having regard to the conclusions reached by us on the questions raised in these petitions, they must fail and are accordingly dismissed with costs. Advocate"s fee Re. 100/- in each of the writ petition.