

PETITIONER:
VIKRAM SHITOLE & ANR.

Vs.

RESPONDENT:
THE M.P. STATE ROAD TRANSPORT CORPORATION & ORS.

DATE OF JUDGMENT: 11/12/1996

BENCH:
K. RAMASWAMY, G.T. NANAVATI

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

This appeal by special leave arises from the judgment of the Madhya Pradesh High Court, Gwalior Bench

Miscellaneous petition No.572 of 1985 dated January 13, 1986

The admitted position is that the route in question, i.e. Gwalior to Indore, was notified under chapter IV-A of Motor Vehicles Act ("Act 4 of 1939", for Short) which has been repealed and reenacted by Motor Vehicles Act, 1988. After the approved route was published under section 68D(3), a scheme was framed under which unemployed graduates were permitted under "self employment scheme" to operate the stage carriages and conditions. It would appear that to certain terms and conditions. It would appear that the appellants did not comply with the said terms and conditions as a result of which their permits were cancelled by the authorities. Calling the action in question the appellants filed a writ petition. The High Court has dismissed the said writ petition. Thus this appeal by special leave.

The controversy is longer res integra. It is settled legal position that once notification under subsection (3) of section 68-D of the Act is published in the Gazette, all the pre-existing operators shall cease to operate on the frozen routes except in accordance with the terms and conditions mentioned in the scheme itself which is law by itself. If the state Road Transport Corporation fails to obtain permit power has been granted to STA/RTA to grant temporary permit until the S.R.T.C. obtains regular permits. In this case, admittedly the state Road Transport Corporation had the permits obtained and that therefore, under the notified scheme no one except the state Road Transport Corporation shall exclusively ply the stage carriages on the notified route in terms of the scheme itself. The self employment scheme therefore, is obviously illegal. This court in the Case of Brij Mohan Parihar etc. V. M.P. State Road Transport Corporation & Ors. etc. (1987) 1 SCC 13) considered this aspect of the matter and in paragraph 3

Of the judgment it was held that it is not, however, permissible under the Act for the Corporation to obtain a permit under the Act for the Corporation to obtain a

permit under Chapter IV-A of Act and to allow a Private operator as its nominee to operate under that permit his motor Vehicle as a stage Carriage on the notified route. It cannot be granted permission to collect any money either as nomination fees or as royalty or supervision charges. Thus it would be seen that in a notified route no private operator is entitled to ply the stage carriage. Accordingly, We hold that dismissal of the appellants writ petition by the High Court is not vitiated by error law Warranting interference.

The appeal is accordingly, dismissed. No Costs.

JUDIS