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C.A.No. 1674 OF 1996

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ITEM NO. 101 P.H.

COURT NO. 3

SECTION XIIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 1674 OF 1996@@
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Regional Manager, APSRTC, Guntur ... Appellant (s)

Vs.

G Hanumantha Rao and Ors. ... Respondent (s)

(With appln. for stay and office report)

With

SLP (C) 10266 & 10267/97

(With appln. for stay and office report)

CA No. 3700-12/2001

(With appln. for deletion of the name of respondent)

(With office report)

CA No. 377-379/2002

CA No. 346-351/2002

(With office report)

CA No. 366-376/2002

(With office report)

CA No. 352-364/2002

(With office report)

CA No. 117-118/2002

(With applns. for substitution of deceased petitioner and
condonation of delay in filing subst. application)

(With office report)

CA 963-980/2002

(With prayer for interim relief)

(With office report)

Date: 07-08-2002 This/These matter(s) was/were called
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

HON'BLE MR. JUSTICE ASHOK BHAN

...2/-

For appellant (s)
in CA 3700-12, 377-79, 366-76, 346-51, 352-64, 963-80 & 1674 and res. No. 1 in CA 117-118
Mr. L Nageswara Rao, Sr.Adv.
Mr. GRK Prasad, Adv.
Mr. Mohd. Wasay Khan, Adv.
Mr. KC Sudershan, Adv.
Mr. Jayanth Muthu Raj, Adv.
Mr. KV Ramakrishna, Adv.
Mr. G Prabhakar, Adv.

in CA 117-118 and res. No.2 in CA 3712
Mr. MN Rao, Sr.Adv.
Mr. R Santhana Krishnan, Adv.
Mr. D Mahesh Babu, Adv.

For petitioner (s)
in SLP 10266-67
Mr. SUK Sagar, Adv.

For respondent (s)
No. 4 in CA 1674
No. 2 in CA 3706
Ms. K Amareswari, Sr.Adv.
Mr. G Venkatesh, Adv.
Ms. Anjani Aiyagari, Adv.

No. 1 in SLP 10266-67
Mr. Rohit, Adv.
Mr. P Nagesh, Adv.
Mr. VG Pragasam, Adv.

No. 2 in SLP 10266-67 & No. 1 in CA 3700-12 (in all the matters)
Mr. TV Ratnam, Adv.
Mr. K Subba Rao, Adv.

No. 2 in CA 3700 & 3704 & No. 2 in CA 371
Mr. TN Rao, Adv.

For impleading party
Ms. DV Padma Priya, Adv.

No. 1 in CA 979
Ms. K Amareswari, Sr.Adv.
Mr. G Venkatesh, Adv.
Mr. T Anil Kumar, Adv.

No. 2 in CA 346
Mr. A Ranganadhan, Adv.
Mr. AV Rangam, Adv.
Mr. Buddy A Ranganadhan, Adv.

No. 2 in CA 348
Ms. K Sharada Devi, Adv.

UPON hearing counsel, the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
C.A. Nos. 3700-12/2001:@@
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I.A. No. 16 is allowed.

C.A. Nos.117-118/2002:@@
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Delay condoned.

Substitution allowed.

Heard learned counsel for the parties.

The matters are referred to a Bench of five learned Judges. Let the papers be placed before the Hon'ble the Chief Justice for appropriate orders.

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(Alka Dudeja)
Court Master

(S. Krishnan)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1674 OF 1996

Regional Manager, APSRTC, Guntur

..

Appellants

-versus-

G. Hanumantha Rao & Ors.

..

Respondents

(with S.L.P.(Civil) Nos. 10266-67/1997, C.A. Nos. 3700-12/2001, 377-79, 346-51, 366-76, 352-64, 117-18, 963-80/2002)

O R D E R

The Andhra Pradesh State Road Transport Corporation (hereinafter referred to as 'the Corporation') framed different schemes for providing transport services on routes falling within the region of West Godavari district. Subsequently, the said schemes were approved by the State government with certain modifications. The scheme was for the total exclusion of the private operators on the entire length of route as well as on portion of the routes. However, this scheme made five exceptions whereby the permits granted to the following categories of operators were not cancelled. They are :

- 1) The State Transport Undertakings;
- 2) The existing town services operating on the notified routes;
- 3) The holders of stage carriage permits for a distance not exceeding 5 kms. on the notified route;
- 4) the existing services operating on the Inter-State routes incorporated in the concluded Inter-State agreement u/s 63(3-B) of M.V. Act, 1939; and
- 5) The services operated by Devasthanams.

It is not disputed that the said scheme has come into force. It appears that respondent No. 3 submitted an application to the Regional Transport

Authority, West Godavari for permanent stage carriage permit on new town service route D.N.R. College (Bhimavaram) to Srinavavruksham. The Corporation objected to the grant of permit on the ground that the permit was sought on a portion of mufussil notified route. The Regional Transport Authority accepted the objection of the Corporation and, consequently, the application submitted by respondent No. 3 was rejected. Aggrieved, respondent No. 3 filed an appeal before the State Transport Appellate Tribunal. The said appeal was allowed. The tribunal directed that a stage carriage permit be granted to respondent No. 3 on town service route. Aggrieved, the Corporation filed a petition before the Andhra Pradesh High Court challenging the order of the Tribunal. It appears that a large number of identical matters were already pending before the High Court and as such the matter was referred to a Full Bench. The Full Bench, inter alia, took the view that under exception No. 2 it is permissible for the Regional Transport Authority to grant permit on town service routes and that the State government while approving mufussil route, the town service routes were not automatically stood notified. In that view of the matter, the writ petition filed by the Corporation was dismissed. It is against the said judgment of the High Court, the Corporation is before us.

Learned counsel, appearing for the appellant-Corporation, urged that once a mofussil approved scheme for the total exclusion of the private operators came into force, all the shorter routes including town service routes overlapping the mofussil notified route stood notified routes and it is not permissible for the Regional Transport Authority to grant permit on the said portion of notified route. Secondly, he urged that exception No. 2 of the scheme relates to the existing services being operated by the operators and not for the future grant of permit on the said portion of route. Prima facie, we find merit in the argument. However, in Andhra Pradesh State Road Transport Corporation vs. State Transport Appellate Tribunal & Ors. 1998 (7) SCC 353, it was held that under exception No. 2 it is permissible to grant fresh permit on town services route. We are of the view that the said interpretation of exception No. 2 is not legally correct in view of settled legal position in regard to consequences of an approved scheme.

The judgment cited above being by a Bench of three learned Judges, we are of the view that these cases require to be heard by a Bench of five Judges. Let the matters be placed before the Hon'ble the Chief Justice for appropriate orders.

& & & & & & & & ..J.
(V. N. Khare)

& & & & & & & .J.
(Shivaraj V. Patil)

& & & & & & & .J.
(Ashok Bhan)

New Delhi;
August 07, 2002