

**Kalusingh and ors. Vs. Transport Appellate Tribunal and ors.**

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**Court :** Rajasthan

**Decided On :** Oct-09-1968

**Reported in :** AIR1970Raj149

**Judge :** D.M. Bhandari and; V.P. Tyagi, JJ.

**Acts :** [Motor Vehicles Act, 1939](#) - Sections 48, 48(3), 57, 57(8) and 64; Motor Vehicles (Amendment) Act, 1956; [Constitution of India](#) - Article 226

**Appeal No. :** Civil Writ Petn. Nos. 378, 465 and 492 and Special Appeal No. 21 of 1967

**Appellant :** Kalusingh and ors.

**Respondent :** Transport Appellate Tribunal and ors.

**Advocate for Def. :** J.G. Chhangani, Adv. for Respondent Nos. 3 to 14,; A.L. Mehta, Adv. for Non-Petitioner Nos. 2 to 7,;

**Advocate for Pet/Ap. :** D.P. Gupta and; B.L. Maheshwari, Advs. for Petitioner in W.P. No. 465 of 1967 and Special Appeal No.

**Judgement :**

Bhandari, J.

1. These four cases raise similar questions of law in one form or the other and, therefore, they are decided by one single judgment. The first three cases are the writ applications under Article 226 of the Constitution and the fourth case is a special appeal under Section 18 of the Rajasthan High Court Ordinance from the judgment of a Single Judge.

2. We first take up Civil Writ Petn. No. 465 of 1967 viz. Kalu Singh v. Transport Appellate Tribunal Rajasthan and others. Briefly stated the facts of this case are that the petitioner is an operator on Bikaner-Nokha-Salasar route -- 128 miles in length. His contention is that there are twelve non-temporary stage carriage permits granted to various operators including the petitioner on the aforesaid route who run four return services per day according to the time-table approved by the Regional Transport Authority, Bikaner. The non-petitioners Nos. 3 to 22 are the operators of Bikaner-Nokha route of 40 miles in length and is completely overlapped by Bikaner-Nokha-Salasar route. There are 20 buses performing 12 daily return services on this route in accordance with the timetable approved by the Regional Transport Authority Bikaner. The petitioner has also mentioned that there are other three routes, namely (1) Bikaner-Jaipur route, (2) Nokha-Sujargarh route, and (3) Salasar-Sujargarh route on which buses are plying by several permit holders. Bikaner-Jaipur route completely overlaps the Bikaner-Salasar route and the other two routes are completely overlapped by Bikaner-Nokha-Salasar route. The petitioner's case is that Bikaner-Nokha-Salasar route is overcrowded particularly upto Nokha inasmuch as considerable number of buses are plying on the said route every day, there being 21 vehicles leaving Bikaner for Nokha every day and vice versa. The time-lag between the timings

fixed for the departure of any two vehicles is comparatively very narrow as compared to the other two routes. The petitioner has further alleged that non-petitioners Nos. 3 to 22 submitted a joint application before the Regional Transport Authority, Bikaner, for grant of three more timings to them and for the change of the existing timings. The Regional Transport Authority published the substance of the aforesaid application in the Rajasthan Gazette dated 7th July, 1966 in accordance with the provisions of Section 57 (8) of the Motor Vehicles Act (hereinafter called the Act) inviting objections in respect thereof within a period of 30 days of the publication. The petitioner submitted objections against the aforesaid application. The Regional Transport Authority, Bikaner, without giving notice of hearing to the petitioner and behind his back passed an order by circulation on 19th September, 1966 increasing the number of services on the Bikaner-Nokha route from 12 to 15 and also altering the timings of the existing services --the result of which was that one of the existing services was closed, while four new services were created. This caused great inconvenience and hardship to the petitioner and the other operators of the Bikaner-Nokha-Salasar route. The new timings came in conflict with the timings of the buses plying on Bikaner-Nokha-Salasar route. The petitioner, when he came to know of the resolution of the Regional Transport Authority, filed an appeal before the Transport Appellate Tribunal against that resolution. This appeal was dismissed by the Transport Appellate Tribunal on the 1st August, 1967 on the ground that no appeal lay against the order of Regional Transport Authority altering the timings of services. The petitioner has contended in this writ petition that in dismissing the appeal of the petitioner, the Transport Appellate Tribunal had refused to exercise jurisdiction vested in it and has prayed that the order of the Transport Appellate Tribunal be quashed and it be directed to hear the appeal and decide it according to law. In the alternative, it is urged that by a writ of certiorari or any other writ or direction, the order of the Regional Transport Authority Bikaner dated 19th September, 1966 be quashed as that authority passed that order without affording the petitioner an opportunity of hearing as required under Section 57 of the Act.

3. Notice of this writ petition was given to the opposite parties. A reply has been filed by non-petitioners Nos. 3 to 22. They have stated that no objection was filed by the petitioner before the Regional Transport Authority Bikaner in respect of the application filed by the answering non-petitioners, the substance of which had been published in the Rajasthan Gazette. It is contended that the Regional Transport Authority, Bikaner, was perfectly justified in law in deciding by circulation whether the application of the non-petitioners should be allowed or not. It is also contended that the petitioners had no right of appeal to the Transport Appellate Tribunal as there was no variation of the conditions of the permit granted to opposite parties Nos. 3 to 22 and as such the Transport Appellate Tribunal was justified in rejecting the appeal of the petitioner on the preliminary point.

4. In essence, the following two questions arise for our consideration in this writ petition:

(1) Whether the Regional Transport Authority Bikaner was bound to act in a quasi judicial manner in deciding the application for the grant of three more timings of non-petitioners Nos. 3 to 22.

(2) Whether the order of the Regional Transport Authority dated the 19th September, 1966 which is Annexure 3 amounted to a variation of the conditions of permits of non-petitioners Nos. 3 to 22 and as such an appeal lay to the Transport Appellate Tribunal.

5. The petitioner filed an appeal against that order to the Transport Appellate Tribunal under Section 64 (b) of the Act.

6. We first take up the first question. Chapter IV of the Act provides for control of transport vehicles. Under Section 44 of the Act, the Regional Transport Authority Bikaner was constituted and it was to exercise and discharge the powers and functions conferred by or under Chapter IV of the Act. Section 46 lays down that an application for a permit in respect of a service of stage carriage or to use a particular motor vehicle as a stage carriage shall, as far as may be, contain the following particulars, namely--

(a) the route or routes or the area or areas to which the application relates;

- (b) the number of vehicles it is proposed to operate in relation to each route or area and the type and seating capacity of each vehicle;
- (c) the minimum and maximum number of daily services proposed to be provided in relation to each route or area and the time table of the normal services;
- (d) the number of vehicles intended to be kept in reserve to maintain the service and to provide for special occasions;
- (e) the arrangements intended to be made for the housing and repair of the vehicles, for the comfort and convenience of passengers and for the storage and safe custody of luggage;
- (f) such other matters as may be prescribed.

7. Section 47 envisages that an application may be made for one permit in respect of a service of a number of stage carriages or it may be made for a permit in respect of one particular motor vehicle. Rule 83 of the Rajasthan Motor Vehicles Rules (hereinafter called the Rules) provides for the form of application for such permits. It has been provided that the application for a permit in respect of a particular stage carriage will be in the form P. St. P. A., and in respect of a service of stage carriages in form P. St. S. A. The forms of permits as provided under Rule 84 provide two different forms. When the application is for a permit in respect of the service of stage carriage, the maximum number of services which the applicant is to ply at any one time under the terms of the permit and also the maximum number of vehicles and the minimum number of daily vehicle trips are to be mentioned in the application. Reference in this connection may be made to items 5 and 6 of Form P. St. S. A. But these particulars are not to be mentioned in respect of an application for a permit in respect of a particular stage carriage. Reference may be made to Form P, St. P. A. This distinction is also there in the two kinds of permits to be issued. The form of permit in respect of a particular stage carriage is form P. St. P., while the form of permit in respect of service of stage carriages is Form P. St. S. In the latter, the type or types of vehicles to be used on the service is given in the permit, one permit being sufficient for a number of vehicles. Rule 84 provides that one copy of Part B of the permit shall be issued in respect of every vehicle authorised by the permit and where the permit relates to more than one vehicle each such copy shall carry, in addition to the number of the permit, a separate serial number contained in brackets after the number of the permit.

8. Section 48 provides for grant of stage carriage permit. The relevant part of this section runs as follows:

'48. Grant of stage carriage permits.

(1) Subject to the provisions of Section 47, a Regional Transport Authority may, on an application made to it under Section 46, grant a stage carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit:

Provided that no such permit shall be granted in respect of any route or area not specified in the application.

(2) Every stage carriage permit shall be expressed to be valid only for a specified route or for a specified area.

(3) The Regional Transport Authority, if it decides to grant a stage carriage permit, may grant the permit for a service of stage carriages of a specified description or for one or more particular stage carriages, and may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely:

- (i) that the service or any specified part thereof shall be commenced with effect from a specified date;
- (ii) the minimum and maximum number of daily services to be maintained in relation to any route or area generally or on specified days and occasions;
- (iii) that copies of the time-table of the service or of particular stage carriages approved by the Regional

Transport Authority shall be exhibited on the vehicles and at specified stands and halts on the route or within the area;

(iv) that the service shall be operated within such margins of deviation from the approved time-table as the Regional Transport Authority may from time to time specify;.....

(xii) that fares shall be charged in accordance with the approved fare table;

(xiii) that a copy of, extract from, the fare table approved by the Regional Transport Authority and particulars of any special fares or rates of fares so approved for particular occasions shall be exhibited on every stage carriage and at specified stands and halts;.....

(xx) that the conditions of the permit shall not be departed from save with the approval of the Regional Transport Authority;

(xxi) that the Regional Transport Authority may, after giving notice of not less than one month,--

(a) vary the conditions of the permit;

(b) attach to the permit further conditions;

.....

(xxiii) any other conditions which may be prescribed.'

9. Section 57 provides for the procedure in applying for and granting permits. The relevant parts of this section are as follows:

#### Section 57

'(2) An application for a stage carriage permit or a public carrier's permit shall be made not less than six weeks before the date on which it is desired that the permit shall take effect, or, if the Regional Transport Authority appoints dates for the receipt of such applications, on such dates.

(8) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or, in the case of a stage carriage permit, by increasing the number of services above the specified maximum, or in the case of a contract carriage permit or a public carrier's permit, by increasing the number of vehicles covered by the permit, shall be treated as an application for the grant of a new permit.

Provided that it shall not be necessary so to treat an application made by the holder of a stage carriage permit who provides the only service on any route or in any area to increase the frequency of the service so provided, without any increase in the number of vehicles.'

10. Rules 78 provides for the manner in which the business of the Transport Authorities is to be conducted. The relevant provision of this rule is Rule 78 (c):

Rule 78 (c)'Save in the case of the hearing of an objection to the grant of a stage carriage permit or of a public carrier's permit and in the case of the hearing of a representation under Sub-section (6) of Section 57 of the Act, the State or a Regional Transport Authority, as the case may be, may decide any matter without holding a meeting by the majority of the votes of members recorded in writing and send to the Secretary.'

11. After setting out the relevant provisions, we now proceed to consider the first question. The question is whether a Regional Transport Authority is to act in a quasi judicial manner in approving a timetable. It may, however, be said at once that the Regional Transport Authority has two kinds of functions to perform. It has certain functions which it must perform in a quasi judicial manner and the other functions it can perform

altogether in an administrative manner.

11-A. In *Veerappa Pillai v. Raman and Raman Ltd.*, AIR 1952 SC 192 (196), the Supreme Court has observed:

'The Motor Vehicles Act is a statute which creates new rights and liabilities and prescribes an elaborate procedure for their regulation. No one is entitled to a permit as of right even if he satisfies all the prescribed conditions. The grant of a permit is entirely within the discretion of the transport authorities and naturally depends on several circumstances which have to be taken into account. The Regional Transport Authority and the Provincial Transport Authority are entrusted under Section 42 with this power. They may be described as administrative bodies exercising quasi judicial functions in the matter of the grant of permits. Under Rule 3 of the Madras Motor Vehicles Rules, the Regional Transport Authority is called the Road Traffic Board and the Provincial Transport Authority is called the Central Road Traffic Board. These bodies or authorities are constituted by the Provincial Government.

The matters which are to be taken into account in granting or refusing a stage carriage permit are specified in Section 47. By delegation under Rule 134-A, the Secretary of the Road Traffic Board may exercise certain powers as regards the grant or refusal of stage carriage permits and under Rule 136, there is an appeal to the Board from these orders. Similar powers of delegation are vested in the Secretary to the Central Board and an appeal lies to the Central Board under Rule 148 (1). From an original order of the Road Traffic Board there is an appeal to the Central Board and from the original orders of the Central Board to the Government, vide Rules 147 and 148. An amendment introduced by the Madras Act XX of 1948 and found as Section 64-A in the Act vests a power of revision in the Provincial Government.

Besides this specific provision, there is a general provision in Section 43A, that the Provincial Government may issue such orders and directions of a general character as it may consider necessary to the Provincial Transport Authority or a Regional Transport Authority in respect of any matter relating to road transport; and such transport authority shall give effect to all such orders and directions. There is, therefore the regular hierarchy of administrative bodies established to deal with the regulation of Transport by means of motor vehicles.

Thus we have before us a complete and precise scheme for regulating the issue of permits, providing what matters are to be taken into consideration as relevant, and prescribing appeals and revisions from subordinate bodies to higher authorities. The remedies for the redress of grievances or the correction of errors are found in the statute itself and it is to these remedies that resort must generally be had. As observed already, the issue or refusal of permits is solely within the discretion of the transport authorities and is not a matter of right.

12. It is contended before us that an application to vary the time-table is to vary the conditions of a permit, and as such, it must be treated as an application for grant of a new permit and in deciding such an application, it is incumbent on the Regional Transport Authority concerned to follow the entire procedure laid down in Section 57 and to decide the application in a quasi-judicial manner after hearing the parties. We may, however, point out that Section 57 (8) is attracted only when an application is to vary the conditions of permit by inclusion of a new route or a new area or in the case of a stage carriage permit by increasing the number of services above the specified maximum. The application of non-petitioners Nos. 3 to 22 was not for inclusion of a new route or new area. It has to be examined whether it could be treated as an application to vary the conditions of a permit by increasing the number of services above the specified maximum. In this case, each of the non-petitioners Nos. 3 to 22 held a permit to use a particular motor vehicle as a stage carriage and none of them had a permit in respect of a service of stage carriages. In none of the permits of petitioners Nos. 3 to 22 was there any condition relating to the minimum or maximum number of services to be provided in relation to Bikaner-Nokha route. In our opinion, the application of non-petitioners Nos. 3 to 22 for increase in the number of trips cannot be deemed to be an application for varying the conditions of their permits by increasing the number of services above the specified maximum. No maximum number or daily services was

mentioned in any of their permits and this part of Clause (8) of Section 57 is attracted only when the permit holder seeks to increase the number of services above the maximum number of services and not otherwise. In *Moolaram V. Regional Transport Authority Bikaner* reported in AIR 1967 SC 269, from which the special appeal is before us, it was contended on behalf of the petitioner before the Single Judge that when the number of services is to be increased by the Regional Transport Authority, the procedure prescribed under Section 57 of the Act is to be followed and reliance was placed on Section 57 (8). The learned single Judge overruled the contention raised in reply that Section 57 (8) will be attracted only when the Regional Transport Authority fixed the maximum number of services on the route by observing as follows :

'As I have observed above where only the time-table is fixed by the Regional Transport Authority and no option is given to run fewer services as envisaged in the time-table it is implicit that the minimum as well as the maximum number of services permitted is the number of services provided under the time-table. If this number is to be increased, Section 57 (8) will be attracted and the procedure prescribed under Section 57 has to be followed.'

13. With great respect, we are of the view that Section 57 (8) of the Act will not be attracted unless in the permit a condition has been attached laying down the maximum number of services proposed to be provided in relation to the route. The Legislature has chosen to treat an application to vary the condition of any permit only when it is either for the inclusion of a new route or it is for increasing the number of services above the specified maximum. In the case of a new route, the permit holder is seeking to include in his route another length or route which was not included in his permit. Obviously there is good reason to treat such an application as an application for the grant of a new permit. This Court had even before the amendment of Section 57 (8) held that an application for inclusion of a new route must be deemed an application for a fresh permit. The other case to justify such treatment is in which it is prayed that the applicant be permitted to increase the number of services above the specified maximum. We have already examined Section 47 and the relevant rules for the form of application for permit and the form of the permit. It is only in the case of a stage carriage permit in which the maximum number of services to be performed have to be specified that the question of application of Section 57 (8) may arise and not to any other case. Ordinarily such a condition may be found in the permit for a service of stage carriages. There may be an exceptional case when there is an application for a permit to use a particular vehicle as a stage carriage and the undertaking is given that that vehicle will perform the minimum and maximum number of daily services. But unless the maximum number of services is specified in the permit there is no occasion to apply provision of Section 57 (8). The reason is that in such a case the permit-holder must be deemed to have exhausted his permit if he was already performing services upto certain maximum number of services and if he wants to run more services, his application must be treated for the grant of a new permit. The observation of the learned Single Judge is that when by the time-table fixed number of services are to be run and no option is given to run more services, it must be taken that the maximum number of services permitted is the number of services provided under the time-table. This view, with great respect, is not acceptable to us specially when we find that under Section 48 (3) (ii) there is a specific reference that a condition in the following terms may be imposed:

'The maximum and minimum number of daily services will be maintained in relation to any route or area generally or on specified days and occasions.'

We cannot ignore the word 'specified' which definitely means that there must be a specific mention in the permit of the maximum number of services. In our opinion, Section 57 (8) will not be attracted unless in a permit the condition is attached laying down the maximum number of services in relation to a route.

14. It is next contended before us on behalf of the petitioner that the result of granting three more trips to non-petitioners Nos. 3 to 22 was as if they were granted three new permits on the Bikaner-Nokha route and, therefore, the application of the non-petitioners for granting more trips must be treated as if they had applied for the grant of three more new permits. This argument is obviously untenable, as such a request by the existing permit holder cannot be treated as a fresh application for the grant of a new permit unless the

provisions of Section 57 (8) are attracted to it. In our opinion this provision of the statute can be invoked only when a condition is attached to a permit laying down the maximum number of services in relation to a route. If such a condition is not there in the permit then application for allowing few more trips by the same vehicle or vehicles cannot be taken to be an application for fresh permit.

15. Learned counsel for the petitioner urged that even if the case of the petitioner is not covered by Section 57, still in the matter of drawing up or approving the time-table, the Regional Transport Authority must act in a quasi-judicial manner, as, sometimes the time-table has very drastic effect on the rights of the existing permit-holders especially of the other routes which overlap the route in question and serious consequences may ensue therefrom by keeping one or few permit holders in an advantageous position by fixing their trip at a time when there is great rush of passengers, while the others may be ruined by giving them such timings when the passenger traffic is at its lowest. Learned counsel argued that such hardships can be obviated only when the Regional Transport Authority acts in a quasi-judicial manner and fixes the time-table after hearing the objectors. In this connection he pointedly drew our attention to the following observations of Subba Rao J. (as he then was) in *A. Vedachala Mudaliar v. State of Madras*, AIR 1952 Mad 276.

'But they contended that the Regional Transport Authority or other tribunals in the hierarchy are not exercising the function as quasi-judicial bodies in regulating timings in respect of the buses. They argued that the said authority in fixing the timings or modifying them later on is only performing an administrative act. I regret my inability to agree with their contentions. I have already pointed out that the change of timings though superficially appear to be innocuous may lead to the results which may affect the parties financially to a substantial degree. There cannot therefore be any distinction in principle why the Legislature should have made a distinction in regard to the character of the enquiry between the issue of a permit and the change of timings. Indeed one of the important particulars to be mentioned in the application is the time-table if any of the service to be provided. When that application containing that particular is given notice of to the persons interested or other authorities mentioned in Section 47 they are entitled to make their representations in respect of that time-table. Section 47 (2) empowers the Regional Transport Authority to reject a permit if it is satisfied that the time-table furnished may affect the speed limit prescribed by the provisions of the Act. But before it could do so it has to give an opportunity to the applicant to amend the time-table. After hearing the representations made and considering the matters contained in Section 47, the Regional Transport Authority can regulate the timings under Section 48. It could also make it a condition to the permit issued to any person that the time-table should be exhibited on his bus and its terms observed. Presumably in this case the observation of the time-table must have been made a condition of the permit. If fixing the time-table in the first instance could be made only by adopting judicial procedure, it is unreasonable to hold that under Rule 269 the Regional Transport Authority could modify the time-table in an administrative capacity for if that be so the safeguards provided by the Legislature would be defeated.'

16. We may at this stage point out that neither in the Act nor in the Rules any specific provision has been made how and in, what manner a time-table is to be drawn up. Section 48 before its amendment by Act No. 100 of 1956 contained four sub- Clauses. Clause (c) expressly provided that the Regional Transport Authority may regulate timings of stage carriage. Thus under the old law it was merely a regulatory duty cast on the Regional Transport Authority. It can be nothing more under the new amended Act. Neither under the new law nor under the old law, any specific provision was made as to how this duty was to be performed. At least, there is nothing to show that this duty is to be performed in a quasi judicial manner. Under Section 48 we find reference to the time-table. Under Section 48 (3) (iii) it has been stated that the time-table must have been approved by the Regional Transport Authority. In Sub-section (3) Clause (iv), the words used are 'approved time-table.' These words no doubt signify that time-table is to be approved by the Regional Transport Authority. But neither these words nor any other provision in the Act or the Rules lay down the procedure for drawing up a time-table. Thus there is no statutory requirement that in drawing up a time-table, the Regional Transport Authority must act in a quasi-judicial manner.

17. We have to examine whether there are other circumstances from which it can be inferred that the

Regional Transport Authority must act in a quasi-judicial manner in drawing up a time-table. This may be considered from different aspects such as (1) the nature of the duty performed, (2) the body by which, this duty is to be performed and (3) its effect on the interests of permit-holders.

18. Coming to the nature of the duty to be performed by the Regional Transport Authority in drawing up a time-table, it may be pointed that for very justifiable grounds, the time-table approved by the R. T. A. at the time of the grant of a permit may have to be changed from time to time during the life of a permit and such a change may be justified from the point of view of the public convenience as well as the interest of the permit-holder. For example, if on a route some new permits are granted, then the old time-table of the existing permit-holders is likely to be changed. Then again, it may be required that new stoppages may be introduced on the route and this will also affect a change in the time-table. Even change in the weather in the year may affect the timings. A time-table of a permit-holder, when a permit is issued, is thus liable to change several times during the period for which his permit is valid which period is normally three to five years. Under certain changed circumstances the timings given in the permits may lose all the significance and change in the existing time-table may become imperative. Thus the duty cast on the Regional Transport Authority to fix the time-table may have to be performed by it several times during the period of the Validity of a particular permit. Then again at the time when there is either a Mela or a festival, it becomes the duty of the Regional Transport Authority to make arrangement for the passengers on such unusual occasions by providing more trips to the existing buses for the convenience and in the interest of the public. Sometimes to cope with the 'passenger traffic, even temporary permits are required to be granted by it. Thus we see that neither the R. T. A. nor the permit-holders in such unusual conditions can treat the time-table fixed by the R. T. A. as sacrosanct and if the traffic needs demand a departure from the existing time-table, the R. T. A. should not hesitate to discharge its duties towards the travelling public by sticking to the existing time-table,

19. There is yet another important aspect of this matter and it is that in most cases in this State, stage carriages are run not according to any fixed time-table granted to each permit-holder but according to the rotation in which his turn comes. Usually there are a number of permit-holders on a particular route and time-table is drawn up not with reference to the permits of particular vehicles but with reference to the number of services to be provided on that route and each vehicle performs the trip in rotation with the other. This method of performance of trips in rotation has been approved by this Court in the Full Bench in *Malikram v. Regional Transport Authority*, AIR 1956 Raj 142 (FB). It was not held to be in contravention of Rule 90.

20. All these considerations only go to show that the purpose of drawing up of time-table has to be taken very often during the period of validity of permit of stage carriage and in the case where rotation system is working, the only time-table that can be attached to the permit of permit-holder is that he would operate the service in rotation within such margin of deviation from the time-table as may be drawn up from time to time by the Regional Transport Authority for the route. For the application for grant of permit, it is sufficient if the applicant mentions that he will operate his service according to the timetable fixed by the Regional Transport Authority from time to time. In our opinion, there is nothing wrong in this. Rather it is much more realistic. An applicant when he makes an application, usually does not know full well, unless of course he is a lone man on the route, the timings for his trips at the time when he makes an application. When the permit is granted, it may not be possible to give him any fixed time-table for his vehicle. He may have no vehicle at the time permit is granted and time may be granted for procuring a vehicle. A permit may be granted with the condition attached to it that he will operate the vehicle according to the time-table fixed by the Regional Transport Authority from time to time. In fact, this is what is being done in so many cases. For illustration we may refer to two permits granted to the permit-holders in *Sardar Gyansingh v. Regional Transport Authority*, D. B. Civil Writ Petn. No. 492 of 1967, wherein it has been mentioned that 'the time-table to be observed punctually as fixed by the R. T. A.' In the conditions attached with the stage carriage permit, it was mentioned as condition No. 1 that the permit-holder shall ply regularly the stage carriage on the fixed timings in the manner required by the Regional Transport Authority, Udaipur. The applicant *Gurbachan-singh Kripalsingh* in their application also did not give any time-table for the grant of permit and had only mentioned that they will operate

according to the time-table as fixed by the Regional Transport Authority. Similarly in writ petition No. 378/67 Jankilal v. Regional Transport Authority Udaipur, the permit granted mentioned 'the time-table to be observed punctually as fixed by the R. T. A.' The applicant Janki-lal merely mentioned in the application that time-table was as per rules.

21. As we have pointed out, it may be not possible for the Regional Transport Authority to give a time-table just at the time when the application for permit is granted or even at the time when the permit is issued. The timings being liable to change from time to time, the course that is usually adopted by the R. T. A. is that it is inserted in the permit that the timetable as approved from time to time shall be observed. If we examine Section 48 (3) (xii), we find that the same is true with regard to fares and it has been pointed out that the condition that may be attached to a permit may be that the fare shall be charged in accordance with the approved fare table. This approved fare table will be liable to change from time to time. The same method may be adopted with respect to the time-table. There is nothing illegal in it.

22. Now we consider the matter from the stand point of the authority which has been charged with the duty of approving the time-table under the Act. The Regional Transport Authority exercises both administrative and quasi judicial powers. In this connection, we may refer to the following observations in B. Rajagopala Naidu v. State Transport Appellate Tribunal, Madras, AIR 1964 SC 1573 = 1964-7 SCR 1:

'This scheme shows that the hierarchy of transport authorities contemplated by the relevant provisions of the Act is clothed both with administrative and quasi-judicial functions and powers. It is well settled that Sections 47, 48, 57, 60, 64 and 64-A deal with quasi-judicial powers and functions. In other words, when applications are made for permits under the relevant provisions of the Act and they are considered on the merits, particularly in the light of evaluation of the claim of the respective parties, the transport authorities are exercising quasi-judicial powers and are discharging those functions, and so, orders passed by them in exercise of those powers and in discharging those functions are quasi-judicial orders which are subject to the jurisdiction of the High Court under Article 226, vide *New Prakash Transport Co., Ltd. v. New Suwarna Transport Co., Ltd.*, 1957 SCR 98 at p. 118 = (AIR 1957 SC 232 at p. 241), and *M/s. Raman and Raman Ltd. v. State of Madras*, (1959) Supp (2) SCR 227 = (AIR 1959 SC 694), and *R. Abdulla Rowther v. State Transport Appellate Tribunal, Madras*, AIR 1959 SC 896.'

23. It has been further observed that the field covered by Sections 42, 43 and 44 is administrative and does not include the area which is the subject-matter of the exercise of quasi judicial authority by the relevant Tribunals.

24. The power of drawing up a timetable is to be gathered under Chapter IV of the Act. Section 48 (3) (iii) speaks of the exhibition of the time-table at specified stands and halts on the route within the area. It may be gathered that it is the Regional Transport Authority which is to fix the stands and halts, but in specifying stands and halts, the Regional Transport Authority will be exercising administrative and not quasi-judicial powers. Similarly, the word 'specified' has been used in Section 48 (3) (iii), (ix), (x), (xiv), (xviii), (xix) in connection with many other things. All these things are to be specified by the B. T. A. in the exercise of its administrative powers and not quasi judicial powers. Since the Act has not specifically laid any procedure to be followed by the R. T. A. while drawing up the time-table and this power of fixing the timings is spelled out from Section 48 (3) (iii). of the Act on the parity of reasoning we can safely conclude that the power of fixing the timetable is the exercise of administrative power vested in the R. T. A. under Section 48 of the Act

25. Next we proceed to consider in what manner the interests of the existing operators are affected if by drawing a new time-table by which the Regional Transport Authority has permitted more trips to some of the permit-holders. We may at the outset mention that, generally speaking, the interests of an existing operator are more or less likely to be affected if any new entrant comes in and to safeguard his interest, provision has been made under Section 57 of the Act to hear him. When such a new entrant has come in and if on a particular route the permit-holders are operating by rotation, financial interest of any operator is not affected

by variation in the time-table if the number of services is increased. Rather on the increase of number of services, every permit-holder plying vehicle on that route is financially put in a better position. It is only in a case when on a particular road there are various routes overlapping each other and it may be that number of trips are increased with regard to the operators on a particular route. The operators on the other route may be affected to some extent. But is it by itself a sufficient justification for holding that the Regional Transport Authority must exercise its powers after giving opportunity to all the operators concerned to have their say. Such operators cannot claim as a matter of right that the number of trips of the other operators cannot be increased. Their rights are not affected, though their monetary interests might be affected to some extent.

26. Let us now examine the case law on the subject. We have already mentioned that in AIR 1952 Mad 276, Subba Rao J. had taken the view that in fixing the timings the Regional Transport Authority is performing a quasi judicial function. This case went in appeal to a Division Bench and the Division Bench of Rajaman-nar and Venkatarama Ayyar J.T., delivered the judgment on other points but left the question about the nature of the order of a Regional Transport Authority in fixing or regulating timings open.

27. The Madhya Pradesh High Court in *Kishorilal v. Secy. Regional Transport Authority Rewa*, AIR 1962 Madh Pra 7, has taken the view that under Section 48 (3) (iii) of the Motor Vehicles Act, fixing of time-table is a quasi-judicial act which should not be delegated, by the Regional Transport Authority to their Secretary. In our humble opinion, this view does not appeal to us because there is nothing in Section 48 (3) (iii) showing that fixing of time-table is a quasi judicial act. This case was cited before a Division Bench of this Court in an unreported case Civil Writ Petn. No. 267 of 1963 (Raj), *Jhalawar Transport Co. v. R.T.A.*, but the actual decision in that case is based on the ground that Secretary to the Regional Transport Authority in that case had no authority under the provisions of the Act to fix the time-table. It cannot be taken that the Division Bench approved of the view taken in *Kishorilal's* case, AIR 1962 Madh Pra 7, that the Regional Transport Authority must act in a quasi judicial manner in fixing the timetable.

28. There is yet another unreported case of this Court Civil Writ No. 107 of 1967 (Raj), *Hazarilal Radhey Shyam v. Regional Transport Authority, Udaipur* in which it has been observed that proceedings for variation of the time-table are quasi judicial proceedings but there is no discussion on the point.

29. We have examined the matter carefully and for reasons which are summarised below, we are of the view that in the matter of fixation of time-table, the Regional Transport Authority cannot be said to be acting in a quasi judicial manner.

(1) The main determining test for ascertaining whether an act authorised by statute is quasi-judicial or administrative act is whether the statute has expressly or impliedly imposed on the statutory body to act judicially (See *Radhey Shyam Khare v. State of Madhya Pradesh*, AIR 1959 SC 107). We have already pointed out that in the matter of drawing up the time-table no statutory duty has been cast on the Regional Transport Authority to act judicially. The main test for holding that the Regional Transport Authority should act in a quasi-judicial manner in drawing up a time-table is not satisfied.

(2) The duty of fixing a time-table has to be performed from time to time and sometimes in an expeditious manner and such a duty cannot be expected to be performed in a quasi-judicial manner. Sometimes it is not possible to give a fixed time-table at the time when permit is granted or refused. At other times, no time-table is fixed for a particular stage carriage as in the case of a route in which the permit-holders are permitted to ply in rotation. The time-table is fixed not with reference to any particular stage carriage but with reference to the public needs and the various permit-holders are to ply their vehicles in rotation without reference to any fixed timetable with regard to each stage carriage.

(3) The provisions of the Motor Vehicles Act show that in the matter of approving a time-table, the Regional Transport Authority is merely regulating the running of the vehicles on a particular route. As against this, the only circumstance which has some relevance in taking the other view is that financial interests of some of the existing operators are likely to be affected to some extent. This by itself is no ground to take the view that the

Regional Transport Authority in fixing the time-table should act in a quasi-judicial manner,

30. We, therefore, hold that the Regional Transport Authority is not bound to fix the time-table after giving opportunity of hearing to all the concerned operators. By this we do not mean to say that the Regional Transport Authority will draw up the timetable without taking into account the views of the various operators plying on the route. Even when an authority is passing an administrative order, such authority exercises its discretion after taking into account all the relevant circumstances. The Regional Transport Authority may first pass a provisional order fixing the time-table and then it may hear the operators concerned and make such alterations in the time-table as may appear to it to be desirable. In doing all this, the Regional Transport Authority concerned, though acting in administrative capacity, would only be doing its duty in a manner which will give satisfaction to all concerned and it is expected even of an administrative authority that while passing an administrative order, it will not act in an arbitrary manner but in a manner which will take the interest of the public and those affected by that order.

31. It has been contended before us that there is no power in the R. T. A. to fix a provisional time-table. The only object to fix a provisional time-table by the Regional Transport Authority is to allow timings for those vehicles which are likely to be kept idle if provisionally they are not given any timings by the Regional Transport Authority and such time-table is always subject to revision. In our opinion, there is nothing contrary to law in doing this. Smith in his treatise 'Judicial Review of Administrative Action' while discussing the cases where the rule of audi alteram partem may be excluded has concluded by saying thus:

'The catalogue of exceptions is not exhaustive. Thus, it can hardly be doubted that the rule will be held to be impliedly excluded in a situation where the number of persons affected by a particular act or class of decision is so great as to make it manifestly impracticable for them all to be given an opportunity to be heard by the competent authority before the decision takes effect. The appropriate safeguard in such a case is to provide by statute an opportunity for persons who consider themselves especially aggrieved to be heard either before an administrative body or before one of the ordinary Courts after the decision has taken effect. A prior hearing is better than a subsequent hearing, but a subsequent hearing is better than no hearing at all.'

If this safeguard as suggested by the learned author is adopted, the State Government may provide for a rule that a provisional time-table may be fixed by the Regional Transport Authority or by any person to whom the power is delegated by the Regional Transport Authority and then a hearing may be granted to all the operators who are likely to be affected by the time-table and final time-table may thereafter be drawn up.

32. We may also mention that there is a remedy provided in the Act itself whereby the persons who are adversely affected by a time-table approved by the Regional Transport Authority and that remedy is by a revision petition before the State Transport Authority under Section 64-A of the Act. The Supreme Court has recently interpreted Section 64-A in *Lakshmi Narain v. State Transport Authority, U. P.*, AIR 1968 SC 410, and has taken the view that the word 'order' in Section 64-A is very wide in terms and that the only condition necessary for filing a revision is that it should be against an order made by the Regional Transport Authority and against which no appeal lies,

33. Now we take into consideration the second question raised before us and it is whether variation in the time-table is a variation in the condition of service. If we hold that variation of time-table is a variation in the condition of permit, then the petitioner who is aggrieved against such variation shall have the right of appeal as laid down by this Court in *Jairamdas v. Regional Transport Authority, Jodhpur*, ILR (1957) 7 Raj 806 = (AIR 1957. Raj 312 F.B.) under Section 64 (b) of the Act. Some High Courts have not taken this view about the interpretation of Section 64 (b), but we are bound by our decision.

34. The argument that the fixation of time-table must be taken to be a condition of permit is based on Section 48 (3) which lays down that the Regional Transport Authority may grant a permit and may, subject to any rule that may be made under the Act, attach to the permit any one or more of the following conditions, namely:--

(iii) that copies of the time-table of the service or of particular stage carriages approved by the Regional Transport Authority shall be exhibited on the vehicles and at specified stands and halts on the route or within the area ;

(iv) that the service shall be operated within such margins of deviation from the approved time-table as the Regional Transport Authority may from time to time specify;'.

35. In the instant case, we do not know what were the conditions attached to the permits of non-petitioners Nos. 3 to 22 as copies of their permits have not been placed before us. It has been urged that it may be presumed that the conditions that the copy of the time-table is to be exhibited in the manner provided in Section 48 (3) (iii) and that the service is to be operated within such margins of deviation from the approved time-table as the Regional Transport Authority may from time to time specify as laid down in Section 48 (3) (iv) were attached to their permits. Granting that this is so, the entire thing mentioned in Section 48 (3) (iii) is the condition of service and so also about the thing mentioned in Section 48 (3) (iv) and approval of a time-table by a Regional Transport Authority may be an act antecedent or even subsequent to the act of granting permit. Drawing up of a time-table or approval of such a time-table does not by itself become a condition of a permit. Further, there is nothing wrong when in the permit it is mentioned as a condition that the copies of the time-table of a particular stage carriage as the Regional Transport Authority may from time to time fix shall be exhibited on the vehicle and at the specified stands and halts within the area. Similarly, there will be nothing wrong in attaching the condition to a permit that the service shall be operated within particular margins of deviation from the time-table approved from time to time. As a matter of practical necessity, conditions, if attached in the above form, would be much more convenient to the smooth working of the entire system of passenger transport on the road. If this is done, it cannot be said that if the time-table is varied, a condition of the permit is in any way varied, because the emphasis in the first condition is with regard to the exhibition and the emphasis of the second condition is with regard to punctuality. We have already drawn attention to condition 12 which provides for fares and that condition is to be put in the form 'that fare shall be charged in accordance with the approved fare-table' and it may be presumed that approved fare-table means fare-table approved from time to time. In the case of fares, after granting a permit, fare may be increased or decreased, still it cannot be said that condition of the permit is in any way varied. What is required to confer a right of appeal on an aggrieved person under Section 64 (a) is that he must be aggrieved by any variation of the condition. Thus, unless there is variation of the condition, there can be no right of appeal. It may be that there may be reference to a time-table in the condition attached to the permit, but variation of the time-table may not amount to variation of condition of permit as discussed above.

36. We may go so far as to hold that merely because a fixed time-table is mentioned in a permit, it cannot be said that by variation of the time-table, there is a variation in the condition of the permit because it is the exhibition part and punctuality aspect of the conditions which must be deemed to be the essential parts of these conditions and unless there is variation in these essential parts there is no variation in the eye of law.

37. The Division Bench of the Madras High Court in *Kali Mudaliar v. Vedachala*, AIR 1952 Mad 545, has observed as follows:

'In our opinion, the time fixed by the Regional Transport Authority at the time of the grant of the permit is not one of the conditions of the permit. The sections above referred to clearly indicate what is meant by a condition attached to a stage carriage permit. Section 59 (3) mentions the conditions which should be attached to every permit and Section 48 (3) gives power to the Regional Transport Authority to attach to a permit any one or more of the conditions mentioned in Sub-clauses (i) to (vi) of Section 48 (d). There may be also other conditions, but they should be in 'pari materia' with the conditions mentioned above. The Regional Transport Authority is given the power to regulate the timings of arrival and departure of stage carriages whether they belong to a single owner or several owners. This power to regulate has nothing to do with the grant of the permit to individual owners. It is a comprehensive power conferred on the authority to be exercised in the interests of the general public. The only condition in this matter would be a condition that the

timing as fixed from time to time should be exhibited on the stage carriage and the timing so exhibited should be observed. For a breach of any of these conditions, a permit may be cancelled, under Section 60 of the Act We think, therefore, Section 48-A has no application to this case, because there has been no variation, cancellation or addition to any condition attached to a stage carriage permit. It follows that Section 64 has equally no application. It is only if there is any variation of a condition that Clause (b) of that section would apply. Clause (f) also has no application.'

In our humble opinion this is the correct view of the law as it stood in 1956. This is in no way affected by the changes made in Section 48. The same view is taken in *P. C. Oommen v. Road Traffic Board, Kot-tayam*, AIR 1958 Ker 339; *N. Gopalan v. Central Road Traffic Board, Trivandrum*, AIR 1958 Ker 341; *Ninan v. Secretary, S. T. A., Trivandrum*, AIR 1960 Ker 359.

38. In *K. M. Thomas v. State Transport Authority, Kerala*, AIR 1960 Ker 111, *Vaidialingam J.* took the view that by the changes Drought about by the amending Act, the position was entirely altered and that the timings fixed by the Regional Transport Authority at the time of grant of a permit must be taken to be conditions of permit by virtue of Section 48 (3). The learned Judge preferred to follow the view taken by the Andhra Pradesh High Court in *P. Satyanarayana v. State of Andhra Pradesh*, AIR 1959 Andh Pra 429. *Raman Nayar J.* of the same High Court in AIR 1960 Ker 359 has expressed the view that under Section 48 (3) it is adherence to the approved time-table within the specified margins of deviation which is the condition and not the approved time-table itself. He, however, decided the case on another point and so no reference was made to a Division Bench. However, eventually, the matter was considered by a Division Bench of the Kerala High Court in *Karthikeyan v. R.T.A., Trichur*, AIR 1966 Ker 137. AIR 1960 Ker 111 was overruled and it was held that Clauses (iii) and (iv) of Section 48 (3) did not make the time-table itself a condition of the permit. It is exhibition or adherence to the approved time-table that is made a condition and not the time-table.

The Mysore High Court has taken a contrary view in *N. Thimmiah v. Mysore Revenue Appellate Tribunal, Bangalore*, AIR 1962 Mys 215 and *K. Siddalingappa v. Revenue Appellate Tribunal*, AIR 1962 Mys 161. In both these cases, *Somnath Iyer, J.*, discussed the matter at length. He, however, took the view that change in law by the amending Act 100 of 1956 did not in any way affect the substance of the position. In this he did not agree with the view expressed by *Vaidialingam J.* in *Thomas's* case that although timings assigned to a permit holder did not constitute conditions of his permit under the Act as it stood before its amendment, they became one such condition after it was amended by Act No. 100 of 1956. He, however, examined the various provisions of the Act and came to the conclusion that the argument that by Section 48 (3) (iii) the time-table is not made a condition of permit but it is the observance which is made the condition rests upon an extremely artificial construction of the provisions of Section 48 (3) (iii). In his view, by Section 48 (3) (iii), the Regional Transport Authority makes and brings into existence a condition by drawing up a time-table and after having done that, that condition is attached to the concerned permit. In our humble opinion, treating the bringing into existence a timetable as a condition is not warranted by Section 48. The condition is to be gathered from the entire language inserted in the permit. If a permit contains conditions in terms of Section 48 (3) (iii) or Section 48 (3) (iv), then such language will be applicable to any time-table that may be fixed from time to time, and variation, in the time-table will not affect the condition and the permit-holder is to follow the timetable varied from time to time. Another reason given by the Mysore High Court is that the breach of condition as contemplated under Section 60 would not be possible if the time-table is not treated as condition of the permit. We do not think that the question of taking action against the defaulter under Section 60 would in any way be affected by the view that we have taken.

39. So far as the other High Courts are concerned, the Andhra Pradesh High Court has adhered to the view taken in AIR 1959 Andh Pra 429. The Madhya Pradesh High Court has also taken the same view in *N. J. Transport (Priv.) Ltd. v. S. T. A. Authority*, AIR 1961 Madh Pra 367. The Patna High Court in *Sukhdeo Kumar v. State of Bihar*, AIR 1959 Pat 580 and the Vindhya Pradesh High Court in *Anandram v. Damodar Das*, AIR 1956 Vin Pra 44, have taken the view that merely variation of the time-table does not mean the variation of condition of permit. We are in respectful agreement with these High Courts for the reasons mentioned in these

judgments and hold the view that variation in the time-table will not be a variation in the condition of permit.

40. In this view of the matter, the petitioner has no right of appeal to the Transport Appellate Authority. It cannot be said that the Transport Appellate Authority had wrongly refused the appeal of the petitioner on preliminary point. Nor can it be said that the Regional Transport Authority in changing the time-table of the stage carriages plied by non-petitioners Nos. 3 to 22 was bound to act in a quasi-judicial manner. In this view of the matter, the petition has got no force.

41. Now we take up Civil Writ No. 378 of 1967, Jankilal v. Regional Transport Authority. This case was heard by a Single Judge but he has thought it fit to refer it to a Division Bench. Briefly, the facts of this case are that there is a route 58 miles in length which is called Bhilwara-Bijolia route via Mandalgarh. Before 1953, five non-temporary stage carriage permits were granted on this route including one to the petitioner and one return service was provided on that route. These permits were renewed from time to time. One permit was cancelled in 1965. Later on, services were increased to two. In the meetings held on 4th, 5th, 6th, 7th of April, 1966, the Regional Transport Authority passed a resolution determining the scope of the stage carriages as 10. On 10-8-1966 the services were increased to three return services. Thereafter on 15th, 16th/17th March, 1967, the Regional Transport Authority granted six new permits to respondents Nos. 3 to 7. The Regional Transport Authority at the time of grant of permits to these respondents did not fix the timings for plying of the vehicles of these respondents. Against grant of permits to these respondents, Jankilal, petitioner and three other persons filed an appeal before the Transport Appellate Tribunal which is pending. One Gyansingh who operated bus on Bhilwara-Shahpura route filed a writ petition in this Court challenging the fixation of time-table by the registering authority, Bhilwara. That petition was allowed and it was held that the registering authority had no jurisdiction to fix the timetable.

The petitioner's case in this writ petition is that opposite parties Nos. 3 to 7 started plying their buses according to the timetable granted on 10th August, 1966 in spite of the fact that no time-table for plying the buses was fixed by the Regional Transport Authority either at the time of the grant of permits to these persons or at any time thereafter. The petitioner, therefore, prayed that the Regional Transport Authority be directed not to allow the Opposite Parties Nos. 2 to 7 to ply their buses on the route on the timings fixed by the Regional Transport Authority on 10th August, 1966. Reply filed by the non-petitioners Nos. 2 to 7 is that matter relating to the revision of the scope had come before the Regional Transport Authority in its meetings dated 4th/5th/6th/7th April, 1966 and the scope was revised and fixed at 10 and thereafter the trips were increased from 2 to 3. At the time of increase of trips, the applications for grant of permits were pending and the trips were increased in view of the fact that the scope has been increased to 10 vehicles and further that the petitioners were granted permits and in their permits it has been mentioned that time-table is to be observed punctually as fixed by the Regional Transport Authority and that in view of this, non-petitioners Nos. 2 to 7 had the right to ply their buses in rotation in accordance with the time-table already existing and that it was in consonance with the prevalent practice. In our view, there is no substance in the petition because the non-petitioners' permits mentioned that they were to observe the time-table punctually as fixed by the Regional Transport Authority. The Regional Transport Authority had fixed timetable for this route not with regard to any particular stage carriage but with regard to the traffic on the route and the persons who were granted permit were to ply their vehicles in rotation. In our opinion, in the circumstances of the case, it cannot be said that non-petitioners Nos. 2 to 7 had not been granted any time-table by the Regional Transport Authority. They were entitled to ply their vehicles in rotation. The writ petition is dismissed.

42. Now we take up Writ Petn. No. 492 of 1967, Sardar Gyansingh v. Regional Transport Authority. This writ petition was heard by a Single Bench who has referred it to the Division Bench. The facts of this case are that Sardar Gyansingh is an operator plying his buses on Bhu-wara-Mandalgarh via Bigod which is completely overlapped by Bhilwara-Bijolia route via Mandalgarh on which 10 permit-holders, as detailed in Jankilal's case, were entitled to ply 10 stage carriages in accordance with the time-table fixed by the Regional Transport Authority on 10th August, 1966. The grievance of the petitioner Gyansingh is that the Secretary, Regional Transport Authority, granted provisional timings as mentioned in Annexure B to non-petitioners Nos. 4 to 9

who, we may mention, are the same as respondents Nos. 2 to 7 in Jankilal's case and to whom permits were granted on Bhilwara-Bijolia route by the Regional Transport Authority concerned by its resolution dated 15th/16th/17th March, 1967. It appears that these provisional timings were granted because Jankilal had obtained ad interim stay order from this Court stopping these new grantees from plying their buses till the decision in Janki-lal's case. By these provisional timings, non-petitioners Nos. 4 to 9 were permitted to ply their buses on the Bhilwara-Bijolia route in three return services in addition to the 3 return services on which the old operators, namely, Jankilal and three others were plying their buses. Gyansingh has raised several contentions in this writ petition but his main contention is that because of grant of provisional timings to non-petitioners Nos. 4 to 9, the services on Bhilwara-Bijolia route have increased to 6 return services, thus adversely affecting him as he is plying his bus on part of the route i. e. Bhilwara-Mandalgarh and he is deprived of the passengers by the increased frequency of services. The opposite parties Nos. 4 to 9 were restrained from plying their buses in the writ petition filed by Jankilal and if that writ petition is dismissed, they are entitled to ply their buses in rotation according to the old timings. The provisional timings that were fixed were only to enable them to ply their buses till the decision of Janki-lal's case because they could not ply their buses according to the time-table fixed on 10th August, 1966. Since the non-petitioners would now ply their buses in rotation in accordance with the time-table fixed on 10-8-1966 and there will be now 3 return services on the Bhilwara-Bijolia route, there remains no substance in the petition of the petitioner. The writ petition is therefore, dismissed.

43. Now we take up the last case. This is a special appeal against the order of Jagatnarayan J. granting the writ petition filed by Moolaram under Article 226 of the Constitution. The petitioner was an Operator on Bikaner-Nokha route. The facts as summarised in the judgment of the learned Judge are that in 1948 there were three independent routes between Bikaner and Salasar--

Bikaner to Nokha .. 45 miles  
Nokha to Sujangarh .. 75 miles  
Sujangarh to Salasar .. 18 miles

In 1958 a number of persons filed applications for grant of permits on Bikaner-Salasar route which was a new route overlapping all the three routes. The operators on the existing three routes filed objections. The Regional Transport Authority granted 12 permits to respondents Nos. 2 to 13, but in the interests of existing operators, the following conditions were attached to the permits.

1. The maximum number of permits on the Bikaner-Salasar route was fixed at 12 and it was provided that there will be only 3 return services every day.
2. It was provided that the buses on the Bikaner-Salasar route shall only stop at Nokha, Jasrasar, Bidasar, Chhappar and Sujangarh.
3. The timing on which the buses on the Bikaner-Salasar route were to run was also fixed by the Regional Transport Authority at the time of granting these permits.

Thereafter on the application of operators of Bikaner-Salasar route, the number of return services was increased by one after inviting objections of the existing operators on the overlapping route and the timings were also fixed after hearing these operators. In the year 1965, the operators on Bikaner-Salasar route applied for change in timings and objections were invited by publishing substance of their application in the Rajasthan Gazette. These objections were considered by the Regional Transport Authority and no change in the timings was allowed. These operators filed another application praying for increase of return services to five. This application was published but the objections of operators on the original route were not invited and the Regional Transport Authority granted the prayer of these operators by passing a resolution by circulation.

44. The petitioner who is an operator on the Bikaner-Nokha route has filed the writ petition. The petitioner's contention is that the Regional Transport Authority could not have increased the number of return services without giving any opportunity to the existing operators on other routes. This writ petition was contested by respondents Nos. 2 to 13 on the ground that the petitioners have an alternative remedy by way of appeal

under Section 64 (b) of the Act. The learned Single Judge held that in the circumstances, increasing the number of trips of non-petitioners Nos. 2 to 13 by the Regional Transport Authority was variation in the condition of their permits and the petitioner had a right of appeal before the Transport Appellate Tribunal. He, however, granted the writ petition holding that the granting of one more trip to non-petitioners Nos. 2 to 13 and fixing time-table for one more trip without hearing the petitioner and the other operators on the three routes was against the provisions of Section 57 of the Act and in this view of the matter, the order of the Regional Transport Authority granting one more service to the non-petitioners Nos. 2 and 3 was quashed.

45. We have already referred to the relevant observation of the learned Single Judge on the interpretation of Section 57 (8) while deciding the writ petition of Kalusingh v. Transport Appellate Tribunal, Civil Writ Petition No. 465/67. With great respect, we are of the view that the interpretation placed by the learned Judge on Section 57 (8) is not correct.

46. We, therefore accept the appeal and set aside the order dated 1st March, 1967 passed by the learned single Judge. In all these cases we pass no order as to costs.

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