

CHAPTER V CONTROL OF TRANSPORT VEHICLES

66. Necessity for permits. – (1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorizing him the use of the vehicle in that place in the manner in which the vehicle is being used :

Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorize the use of the vehicle as a contract carriage:

Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorize the use of the vehicle as a good carriage either when carrying passengers or not :

Provided also that a goods carriage permit shall, subject to any conditions that may be specified in the permit, authorize the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him.

(2) The holder of a goods carriage permit may use the vehicle, for drawing of any trailer or semi-trailer not owned by him, subject to such conditions as may be prescribed:

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[Provided that the holder of a permit of any articulated vehicle may use the prime-mover of that articulated vehicle for any other semi-trailer.]

(3) The provisions of sub-section (1) shall not apply -

(a) to any transport vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise;

to any transport vehicle owned by a local authority or by a person acting under contract with a local authority and used solely for road cleansing, road watering or conservancy purposes;

(b) to any transport vehicle used solely for police, fire brigade or ambulance purposes;

(c) to any transport vehicle used solely for the conveyance of corpses and the mourners accompanying the corpses;

(d) to any transport vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety;

(e) to any transport vehicle used for any other public purposes as may be prescribed by the State Government in this behalf;

(f) to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;

** S.5 of the T. N. Motor Vehicles (Special Provisions) Act, 1992 provides that the provisions of Ss. 3,4 and 6 of the 1992 T. N. Act shall have effect notwithstanding anything inconsistent therewith contained in Chaps. V and VI including S.98 of the Motor Vehicles Act, 1988.*

38. Added by Act 54 of 1994, S. 20 (w.e.f. 14-11-1994).

(g) to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;

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(i) to any goods vehicle, the gross vehicle weight of which does not exceed 3,000 kilograms;

(j) subject to such conditions as the Central Government may, by notification in the Official Gazette, specify, to any transport vehicle purchased in one State and proceeding to a place, situated in that State or in any other State, without carrying any passenger or goods;

(k) to any transport vehicle which has been temporarily registered under section 43 while proceeding empty to any place for the purpose of registration of the vehicle;

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(l) to any transport vehicle which, owing to flood, earthquake or any other natural calamity, obstruction on road, or unforeseen circumstances, is required to be diverted through any other route, whether within or outside the State, with a view to enabling it to reach its destination;

(m) to any transport vehicle used for such purposes as the Central or State Government may, by order, specify;

(n) to any transport vehicle which is subject to a hire-purchase, lease hypothecation agreement and which owing to the default of the owner has been taken possession of by or on behalf of, the person with whom the owner has entered into such agreement, to enable such motor vehicle to reach its destination; or

(o) to any transport vehicle while proceeding empty to any place for purpose of repair;

(4) Subject to the provisions of sub-section (3), sub-section (1) shall, if the State Government by rule made under section 96 so prescribes, apply to any motor vehicle adapted to carry more than nine persons excluding the driver.

Corresponding Law. – Section 66 corresponds to section 42 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 66 lays down that no motor vehicle shall be used as a transport vehicle without a permit issued by transport authorities to use the vehicle as such in a public place. It also provides for exemption of certain vehicles from the operation of the provisions of this clause on certain conditions and for usage for certain specific purposes.

³⁹ Cl. (h) omitted by Act 27 of 2000, S. 4 (w.e.f. 11-8-2000). Prior to its omission, Cl. (h) read as under :- “(h) to any transport vehicle owned by, and used solely for the purposes of, any educational institution which is recognized by the Central or State Government or whose managing committee is a society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India;”

⁴⁰ Cl. (l) omitted by Act 39 of 2001, S. 2. Prior to its omission, Cl. (l) read as under :-

“(l) to any motor vehicle which is operated by electric battery, compressed natural gas or solar energy;”

67. Powers to State Government to control road transport. – (1) A State Government, having regard to -

(a) the advantages offered to the public, trade and industry by the development of motor transport.

(b) the desirability of co-ordinating road and rail transport,

(c) the desirability of preventing the deterioration of the road system, and

(d) the desirability of preventing uneconomic competition among holders of permits, may, from time to time, by notification in the Official Gazette, issue directions both to the State Transport Authority and Regional Transport Authority-

(i) Regarding the fixing of fares and freight (including the maximum and minimum in respect thereof) for stage carriages, contract carriages and goods carriages :

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(ii) regarding the prohibition or restriction, subject to such conditions as may be specified in the direction, of the conveying of long distance goods traffic generally, or of specified classes of goods carriages ;

(iii) regarding any other matter which may appear to the State Government necessary or expedient for giving effect to any agreement entered into with the Central Government or any other country relating to the regulation of motor transport generally, and in particular to its co-ordination with other means of transport and the conveying of long distance goods traffic.

Provided that no such notification in respect of the matters referred to in clause (ii) or clause (iii) shall be issued unless a draft of the proposed direction is published in the official gazette specifying there in a date being not less than one month after such publication, on or after which the draft will be taken into consideration and any objection or suggestion which may be received has, in consultation with the State Transport Authority, been considered after giving the representatives of the interests affected an opportunity of being heard.

(2) Any direction under sub-section (1) regarding the fixing of fares and freights for stage carriages, contract carriages and goods carriages may provide that such fares or freights shall be inclusive of the tax payable by the passengers or the consignors of the goods, as the case may be, to the operators of the stage carriages, contract carriages or goods carriages under any law for the time being in force relating to tax on passengers and goods.

Corresponding Law :Section 67 corresponds to section 43 of the Motor Vehicles Act, 1939.

Objects and Reasons :- Clause 67 authorizes the State Government to issue direction to the Transport Authorities regarding the fixing of fares and freight for transport vehicles, the prohibition and restriction for the carriage of long distance goods traffic, the giving effect to any inter –state inter-country agreement in respect of regulation of motor transport. and discharge the powers and functions specified in sub-section (3), and shall in like manner constitute Regional Transport Authorities to exercise and discharge throughout such areas (in this Chapter referred to as regions) as may be specified in the notification, in respect of each Regional Transport Authority, the powers and functions conferred by or under this Chapter on such Authorities :

41. Proviso omitted by Act 39 of 2001, S. 2. Prior to its omission, the Proviso read as under :- “Provided that the fares and freights in respect of such stage carriages, contract carriages and goods carriages operated by battery, compressed natural gas or solar energy shall fixed by the owner or operator.”

68. Transport Authorities - (1) The State Government shall, by notification in the Official Gazette, constitute for the State a State Transport Authority to exercise

Provided that in the Union Territories, the Administrator may abstain from constituting any Regional Transport Authority.

(2) A State Transport Authority or a Regional Transport Authority shall consist of a Chairman who has had judicial experience or experience as an appellate or a revisional authority or as an adjudicating authority competent to pass any order or take any decision under any law and in the case of a State Transport Authority, such other persons (whether officials or not), not being more than four and, in the case of a Regional Transport Authority, such other person (whether officials or not), not being more than two, as the State Government may think fit to appoint ; but no person who has any financial interest whether as proprietor, employee or otherwise in any transport undertaking shall be appointed, or continue to be, a member of a State or Regional Transport Authority, and , if any person being a member of any such Authority acquires a financial interest in any transport undertaking, he shall within four weeks of so doing, give notice in writing to the State Government of the acquisition of such interest and shall vacate office.

Provided that nothing in this sub-section shall prevent any of the members of the State Transport Authority or a Regional Transport Authority, as the case may be, to preside over a meeting of such Authority during the absence of the Chairman, notwithstanding that such member does not possess judicial experience or experience as an appellate or a revisional authority or as an adjudicating authority competent to a pass any order or take any decision under any law :

Provided further that the State Government may, -

(i) where it considers necessary or expedient so to do, constitute the State Transport Authority or a Regional Transport Authority for any region so as to consist of only one member who shall be an official with judicial experience or experience as an appellate or a revisional authority or as an adjudicating authority competent to pass any order or take any decision under any law ;

(ii) by rules made in this behalf, provide for the transaction of business of such authority in the absence of the Chairman or any other member and specify the circumstances under which, and the manner in which, such business could be so transacted :

Provided also that nothing in this sub-section shall be construed as debarring an official (other than an official connected directly with the management or operation of a transport undertaking) from being appointed or continuing as a member of any such authority merely by reason of the fact that the Government employing the official has, or acquires, any financial interest in a transport undertaking.

(3) The State Transport Authority and every Regional Transport Authority shall give effect to any directions issued under section 67 and the State Transport Authority shall, subject to such directions and save as otherwise provided by or under this Act, exercise and discharge throughout the State the following powers and functions, namely :-

(a) to co-ordinate and regulate the activities and policies of the Regional Transport Authorities, if any, of the State ;

(b) to perform the duties of a Regional Transport Authority where there is no such Authority and, if it thinks fit or if so required by a Regional Transport Authority, to perform those duties in respect of any route common to two or more regions;

(c) to settle all disputes and decide all matters on which differences of opinion arise between Regional Transport Authorities;

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[(ca) Government to formulate routes for playing stage carriages; and]

(d) to discharge such other functions as may be prescribed.

(4) For the purpose of exercising and discharging the powers and functions specified in sub-section (3), a State Transport Authority may, subject to such conditions as may be prescribed, issue directions to any Regional Transport Authority, and the Regional Transport Authority shall, in the discharge of its functions under this Act, give effect to and be guided by such directions.

(5) The State Transport Authority and any Regional Transport Authority, if authorized in this behalf by rules made under section 96, may delegate such of its powers and functions to such authority or person subject to such restrictions, limitations and conditions as may be prescribed by the said rules.

Corresponding Law - Section 68 corresponds to section 44 of the Motor Vehicles Act, 1939.

Objects and Reasons - Clause 68 confers upon the State Governments, the power to constitute State Transport Authority and Regional Transport Authorities consisting of officials and also non-officials. It also provides that if the State Government so desires, the transport authority may consist of one member who shall be an official. It also provides for delegation of powers by the transport authorities to any authorities or persons for convenient dispatch of business.

69. General provision as to applications for permits - (1) Every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles :

Provided that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles;

Provided further that if it is proposed to use the vehicle or vehicles in two or more regions lying in different States, the application shall be made to the Regional Transport Authority of the region in which the applicant resides or has his principal place of business.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification in the Official Gazette, direct that in the case of any vehicle or vehicles proposed to be used in two or more regions lying in different States, the application under that sub-section shall be made to the State Transport Authority of the region in which the applicant resides or has his principal place of business.

Corresponding Law - Section 69 corresponds to section 45 of the Motor Vehicles Act, 1939.

Objects and Reasons - Clause 69 specifies the transport authorities to whom applications for permits to operate transport vehicles on intra-district, inter-district, inter-State and inter-State routes has to be made.

42. Inserted by Act 54 of 1994, S. 22 (w.e.f. 14-11-1994).

70. Application for stage carriage permit - (1) An application for a permit in respect of a stage carriage (in this Chapter referred to as a stage carriage permit) or as a reserve 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 type and seating capacity of each such vehicle ;

(c) the minimum and maximum number of daily trips proposed to be provided and the time-table of the normal trips.

Explanation - For the purposes of this section, section 72, section 80 and section 102, “trip” means a single journey from one point to another, and every return journey shall be deemed to be a separate trip;

(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, maintenance 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.

(2) An application referred to in sub-section (1) shall be accompanied by such documents as may be prescribed.

Corresponding Law :- Section 70 corresponds to section 46 of the Motor Vehicles Act, 1939.

Objects and Reasons - Clause 70 prescribes the form of application for the grant of stage carriage permit and spare bus permit.

NOTES

Furnishing of particulars of vehicles. – Before granting a permit, the petitioner is bound to furnish the details of the vehicle to be offered for regular permit: C.O. Davis v. Secretary, Regional Transport Authority 1999 A.I.H.C. 2307 (Ker.).

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

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(2) A Regional Transport Authority shall refuse to grant a stage carriage permit if it appears from any time-table furnished that the provisions of this Act relating to the speed at which vehicles may be driven are likely to be contravened :

Provided that before such refusal an opportunity shall be given to the applicant to amend the time-table so as to conform to the said provisions.

43. *Proviso omitted by Act 54 of 1994, S. 23 (w.e.f. 14-11-1994). Prior to its omission, the Proviso read as under :-*

“provided that such permit for a route of fifty kilometers or less shall be granted only to an individual or a State Transport undertaking.”

(3) (a) The State Government shall, if so directed by the Central Government having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of stage carriages generally or of any specified type, as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than five lakhs.

(b) Where the number of stage carriages are fixed under clause (a), the Government of the State shall reserve in the State certain percentage of stage carriage permits for the scheduled castes and the scheduled tribes in the same ratio as in the case of appointments made by direct recruitment to public services in the State.

(c) Where the number of stage carriages are fixed under clause (a), the Regional Transport Authority shall reserve such number of permits for the scheduled castes and the scheduled tribes as may be fixed by the State Government under sub-clause (b).

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

(i) financial stability of the applicant ;

(ii) satisfactory performance as a stage carriage operator including payment of tax if the applicant is or has been an operator of stage carriage service; and

(iii) such other matters as may be prescribed by the State Government:

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

(i) State transport undertakings ;

(ii) Co-operative societies registered or deemed to have been registered under any enactment for the time being in force ; ⁴⁴ [*]

⁴⁵ (iii) Ex-servicemen ; [or]

⁴⁶ [(iv) any other class or category of persons, as the State Government may, for reasons to be recorded in writing, consider necessary].

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Explanation - For the purposes of this section “ company ” means any body corporate, and includes a firm or other association of individuals; and “director”, in relation to a firm, means a partner in the firm.

Corresponding Law :- Section 71 corresponds to section 47 of the Motor Vehicles Act, 1939.

44. The word “or” omitted by Act 54 of 1994, S. 23 (w.e.f. 14-11-1994).

45. Inserted, *ibid* (w.e.f. 14-11-1994).

46. Inserted, *ibid* (w.e.f. 14-11-1994).

47. Ss. (4) and (5) omitted by Act 54 of 1994, S. 23 (w.e.f. 14-11-1994). Prior to their omission, sub-Ss. (4) and (5) read as under :-

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

Objects and Reasons - Clause 71 lays down the procedure in considering applications for stage carriage permits by the Regional Transport Authorities and also provides for empowering the State Government to issue direction to the Transport authorities to limit the number of stage carriage permits in certain towns and cities with a population of not less than five lakhs.

72. Grant of stage carriage permit - (1) Subject to the provisions of section 71, a Regional Transport Authority may, on an application made to it under section 70, 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) The Regional Transport Authority, if it decides to grant a stage carriage permit, may grant the permit for a stage carriage of a specified description 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 vehicles shall be used only in a specified area, or on a specified route or routes;

(ii) that the operation of the stage carriage shall be commenced with effect from a specified date ;

(iii) the minimum and maximum number of daily trips to be provided in relation to any route or area generally or on specified days and occasions ;

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

(iv) that copies of the time-table of the stage carriage 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 ;

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

(vi) that within municipal limits and such other areas and places as may be prescribed, passengers or goods shall not be taken up or set down except at specified points ;

(vii) the maximum number of passengers and the maximum weight of luggage that may be carried on the stage carriage, either generally or on specified occasions or at specified times and seasons;

(viii) the weight and nature of passenger's luggage that shall be carried free of charge, the total weight of luggage that may be carried in relation to each passenger, and the arrangements that shall be made for the carriage of luggage without causing inconvenience to passengers;

(ix) the rate of charge that may be levied for passengers' luggage in excess of the free allowance ;

(x) that vehicles of a specified type fitted with body conforming to approved specifications shall be used :

Provided that the attachment of this condition to a permit shall not prevent the continued use, for a period of two years from the date of publication of the approved specifications, of any vehicle operating on that date ;

(xi) that specified standards of comfort and cleanliness shall be maintained in the vehicles;

- (xii) the conditions subject to which goods may be carried in the stage carriage in addition to or to the exclusion of passengers ;
- (xiii) that fares shall be charged in accordance with the approved fare table;
- (xiv) that a copy of, or 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 the stage carriage and at specified stands and halts ;
- (xv) that tickets bearing specified particulars shall be issued to passengers and shall show the fares actually charged and that records of tickets issued shall be kept in a specified manner ;
- (xvi) that mails shall be carried on the vehicle subject to such conditions (including conditions as to the time in which mails are to be carried and the charges which may be levied) as may be specified ;
- (xvii) the vehicles to be kept as reserve by the holder of the permit to maintain the operation and to provide for special occasions ;
- (xviii) the conditions subject to which the vehicle may be used as a contract carriage ;
- (xix) that specified arrangements shall be made for the housing, maintenance and repair of vehicle ;
- (xx) that any specified bus station or shelter maintained by Government or a local authority shall be used and that any specified rent or fee shall be paid for such use ;
- (xxi) that the conditions of the permit shall not be departed from, save with the approval of the Regional Transport Authority ;
- (xxii) 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 :

Provided that the conditions specified in pursuance of clause (i) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometers, and any variation within such limits shall be made only after the regional transport authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof;

(xxiii) that the holder of a permit shall furnish to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may from time to time prescribe ;

(xxiv) any other conditions which may be prescribed.

Corresponding Law :- Section 72 corresponds to section 48 of the Motor Vehicles Act, 1939.

Objects and Reasons :- Clause 72 empowers the transport authorities to grant or refuse a stage carriage permit and also to impose certain conditions and attach such conditions to the permits issued.

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Application can be made at any time. – Under the old Act, applications for grant of a stage carriage permit have to be made as and when called for by the Regional Transport Authority whereas under the new Act, application for grant of any kind of permit can be submitted by the operator at any time and the same has to be considered by the Regional Transport Authority

on merits and in accordance with the provisions of the Act: A.P.S.R.T.C. v. State Transport Appellate Tribunal 1998 A.I.H.C. 2491 (Andh. Pra.).

73. Application for contract carriage permit -An application for a permit in respect of a contract carriage (in this Chapter referred to as a contract carriage permit) shall contain the following particulars, namely :-

- a) the type and seating capacity of the vehicle ;
- (b) the area for which the permit is required ;
- (c) any other particulars which may be prescribed.

Corresponding Law :- Section 73 corresponds to section 49 of the Motor Vehicles Act, 1939.

Objects and Reasons :- Clause 73 prescribes the form of application for contract carriage permit.

74. Grant of contract carriage permit :- (1) Subject to the provisions of sub-section (3), a regional transport authority may, on an application made to it under section 73, grant a contract 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 area not specified in the application.

(2) The Regional Transport Authority, if it decides to grant a contract carriage permit, 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 vehicles shall be used only in a specified area or on a specified route or routes;
- (ii) that except in accordance with specified conditions, no contract of hiring, other than an extension or modification of a subsisting contract, may be entered into outside the specified area;
- (iii) the maximum number of passengers and the maximum weight of luggage that may be carried on the vehicle, either generally or on specified occasions or at specified times and seasons;
- (iv) the conditions subject to which goods may be carried in any contract carriage in addition to, or to the exclusion of, passengers;
- (v) that, in the case of motor cabs, specified fares or rates of fares shall be charged and a copy of the fare table shall be exhibited on the vehicle;
- (vi) that, in the case of vehicles other than motor cabs, specified rates of hiring not exceeding specified maximum shall be charged;
- (vii) that, in the case of motor cabs, a specified weight of passengers luggage shall be carried free of charge, and that the charge, if any, for any luggage in excess thereof shall be at a specified rate;
- (viii) that, in the case of motor cabs, a taximeter shall be fitted and maintained in proper working order, if prescribed;
- (ix) 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;

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

(xi) that specified standards of comfort and cleanliness shall be maintained in the vehicles;

(xii) that, except in the circumstances of exceptional nature, the plying of the vehicle or carrying of the passengers shall not be refused;

(xiii) any other conditions which may be prescribed.

(3)(a) The State Government shall, if so directed by the Central Government, having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of contract carriages generally or of any specified type as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than five lakhs.

(b) Where the number of contract carriages are fixed under clause (a), the Regional Transport Authority shall, in considering an application for the grant of permit in respect of any such contract carriage, have regard to the following matters, namely :-

(i) financial stability of the applicant

(ii) satisfactory performance as a contract carriage operator including payment of tax if the applicant is or has been an operator of contract carriages ; and

(iii) such other matters as may be prescribed by the State Government:

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

(i) the India Tourism Development Corporation ;

(ii) State Tourism Development Corporation ;

(iii) State Tourism Departments ;

(iv) State Transport undertakings ;

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

(vi) Ex-servicemen.

Corresponding Law :- Section 74 corresponds to section 51 of the Motor Vehicles Act, 1939.

Objects and Reasons :- Clause 74 seeks to empower the transport authorities to grant or refuse a contract carriage permit and as also to impose certain conditions and attach such conditions to the permits issued. It also empowers the Central Government to issue directions to transport authorities to limit the number of permits to be issued in cities and towns having a populations of not less than 5 lakhs.

75. Scheme for renting of motor cabs. - (1) the central government may by notification in the official gazette, make a scheme for the purpose of regulating the business of renting of

⁴⁸ [motor cabs or motor cycles to persons desiring to drive either by themselves or through drivers, motor cabs or motor cycles] for their own use and for matters connected therewith.

(2) A scheme made under sub-section (1) may provide for all or any of the following matters, namely;-

(a) licensing of operators under the scheme including grant, renewal and revocation of such licenses; _____

48. Substituted for "motor cabs to persons desiring to drive the cabs" by Act 54 of 1994, S. 24 (w.e.f. 14-11-1994).

- (b) form of application and form of licenses and the particulars to be contained therein;
 - (c) fee to be paid with the application for such licenses; (d) the authorities to which the application shall be made;
 - (e) condition subject to which such licenses may be granted, renewed or revoked;
 - (f) appeals against orders of refusal to grant or renew such licenses and appeals against orders revoking such licenses;
 - (g) conditions subject to which motor cabs may be rented; (h) maintenance of records and inspection of such records;
 - (i) such other matters as may be necessary to carry out the purpose of this section,
- Corresponding Law :-** this is a new provision in the 1988 ACT.

Objects and Reasons :- Clause 75 provides that the central government may make a scheme for regulating the renting of motor cabs to hirers enabling the hirers to drive the vehicles themselves for their own use.

76. Application for private service vehicle permit. - (1) A Regional Transport Authority may, on an application made to it, grant a private service vehicle permit in accordance with the application or with such modification as it deems fit or refuse to grant such permit; Provided that no such permit shall be granted in respect of any area or route not specified in the application.

(2) An application for a permit to use a motor vehicle as a private service vehicle shall contain the following particulars, namely;-

- (a) type and seating capacity of the vehicle ;
- (b) the area or the route or routes to which the application relates ;
- (c) the manner in which it is claimed that the purpose of carrying persons otherwise than for hire or reward or in connection with the trade or business carried on by the applicant will be served by the vehicle ; and
- (d) any other particulars which may be prescribed.

(3) The Regional Transport Authority if it decides to grant the permit 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 vehicle be used only in a specified area or on a specified route or routes ;
- (ii) the maximum number of persons and the maximum weight of luggage that may be carried ;
- (iii) 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 ;
- (iv) that the conditions of permit shall not be departed from, save with the approval of the Regional Transport Authority;
- (v) that specified standards of comforts and cleanliness shall be maintained in the vehicle;
- (vi) that the holder of the permit shall furnish to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may, from time to time, specify ; and
- (vii) such other conditions as may be prescribed.

Corresponding Law :- Section 76 corresponds to section 52 of the Motor Vehicles Act, 1939.

Objects and Reasons :- Clause 76 deals with permits for private service vehicles for the transport of employees by the employers otherwise than for hire or reward, the authorities to grant such permits and the conditions to be attached to such permit.

77. Application for goods carriage permit :- An application for a permit to use a motor vehicle for the carriage of goods for hire or reward or for the carriage of goods for or in connection with a trade or business carried on by the applicant (in this Chapter referred to as a goods carriage permit) shall, as far as may be, contain the following particulars, namely :-

(a) the area or the route or routes to which the application relates ; (b) the typed and capacity of the vehicle ;

(c) the nature of the goods it is proposed to carry ;

(d) the arrangements intended to be made for the housing, maintenance and repair of the vehicle and for the storage and safe custody of the goods ;

(e) such particulars as the Regional Transport Authority may require with respect to any business as a carrier of goods for hire or reward carried on by the applicant at any time before the making of the application, and of the rates charged by the applicant:

(f) particulars of any agreement, or arrangement, affecting in any material respect the provision within the region of the Regional Transport Authority of facilities for the transport of goods for hire or reward, entered into by the applicant with any other person by whom such facilities are provided, whether within or without the region ;

(g) any other particulars which may be prescribed.

Corresponding Law :- Section 77 corresponds to section 54 of the Motor Vehicles Act, 1939.

Objects and Reasons :- Clause 77 prescribes the form of application for goods carriage permit.

78. Consideration of application for goods carriage permit :- A Regional Transport Authority shall, in considering an application for a goods carriage permit, have regard to the following matters, namely;-

(a) the nature of the good to be carried with special reference to their dangerous or hazardous nature to human life;

(b) the nature of the chemicals or explosives to be carried with special reference to the safety to human life.

Corresponding law.- Section 78 corresponds to section 55 of the motor vehicles act, 1939.

Objects and reasons.- Clause 78 deals with procedure for the grant of goods of carriage permit

79. Grant of goods carriage permit. - (1) A Regional Transport Authority may, on an application made to it under section 77, grant a goods carriage permit to be valid throughout the State or 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 area or route not specified in the application.

(2) The Regional Transport Authority, if it decides to grant a goods carriage permit it, may grant the permit 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 vehicle shall be used only in a specified area, or on a specified route or routes;
- (ii) that the gross vehicle weight of any vehicle used shall not exceed a specified maximum;
- (iii) that goods of a specified nature shall not be carried;
- (iv) that goods shall be carried at specified rates;
- (v) that specified arrangement shall be made for the housing, maintenance and repair of the vehicle and the storage and safe custody of the goods carried;
- (vi) that the holder of the permit shall furnish to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may, from time to time, prescribe;
- (vii) 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;
- (viii) that the conditions of the permit shall not be departed from, save with the approval of the Regional Transport Authority ;
- (ix) any other conditions which may be prescribed.

(3) The conditions referred to in sub-section (2) may include conditions relating to the packaging and carriage of goods of dangerous or hazardous nature to human life.

Corresponding Law. - Section 79 corresponds to section 56 of the motor vehicles act, 1939.

Objects and Reasons. - Clause 79 provides for the grant of goods carriage permits, the power of transport authorities to grant or refuse such permits and to impose conditions and attach such conditions to the permit.

80. Procedure in applying for and granting permits :- (1) An application for a permit of any kind may be made at any time.

(2)A⁴⁹ [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] shall not ordinarily refuse to grant an application for permit of any kind made at any time under this Act;

Provided that the⁵⁰ [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] may summarily refuse the application if the grant of any permit in accordance with the application would have the effect of increasing the number of stage carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 71 or of contract carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 74;

49. Substituted for "Regional Transport Authority" by Act 54 of 1994, S. 25 (w.e.f. 14-11-1994).

50. Substituted, *ibid*, for "Regional Transport Authority" (w.e.f. 14-11-1994).

51. Substituted, *ibid*, for "Regional Transport Authority" (w.e.f. 14-11-1994).

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 Provided further that where a [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] refuses an application for the grant of a permit of any kind under this Act, it shall give to the applicant in writing its reasons for the refusal of the same and an opportunity of being heard in the matter.

(3) 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 by altering the route or routes or area covered by it, or in the case of a stage carriage permit by increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in 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 stage carriage permit who provides the only service on any route to increase the frequency of the service so provided without any increase in the number of vehicles ;

Provided further that, -

(i) in the case of variation, the termini shall not be altered and the distance covered by the variation shall not exceed twenty four kilometers ;

(ii) in the case of extension, the distance covered by extension shall not exceed twenty four kilometers from the termini, & any such variation or extension within such limits shall be made only after the transport authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or extended or any part thereof.

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 (4) A [Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] may, before such date as may be specified by it in this behalf, replace any permit granted by it before the said date by a fresh permit conforming to the provisions of section 72 or section 74 or section 76 or section 79, as the case may be, and the fresh permit shall be valid for the same route or routes or the same area for which the replaced permit was valid.

Provided that no condition other than a condition which was already attached to the replaced permit or which could have been attached thereto under the law in force when that permit was granted shall be attached to the fresh permit except with the consent in writing of the holder of the permit was valid;

(5) Notwithstanding anything contained in section 81, a permit issued under the provisions of sub-section (4) shall be effective without renewal for the remainder of the period during which the replaced permit would have been so effective.

Corresponding Law. -Section 80 corresponds to section 57 of the motor vehicles act 1939.

Objects and Reasons. - Clause 80 lays down the procedure in applying for and granting permits of any kind, variations of permits and replacement of permits by fresh permits under certain circumstances by the transport authorities.

NOTES

Object. – S. 80 of the 1988 Act has been introduced with an object to liberalize the issuance of the permit to all the applicants who are eligible for grant of permits. The languages of S.80 in the light of the purpose and object of the Act itself makes it clear that no limit for the grant of

52. Substituted for "Regional Transport Authority" by Act 54 of 1994, S. 25(w.e.f. 14-11-1994).

permit on a route can be fixed by the Regional Transport Authority because the Act as it stands today, does not contain any such provision. The language of Ss. 67,71,72 and 80 makes it clear that the Act does not impose any restriction on the number of permits to be granted on a particular route. When the Act itself does not impose any restriction on the number of permits to be issued on a particular route then the restriction cannot be imposed by way of issuing the directions by the State Government to the Regional Transport Authority: Shiv Raj v. State of Rajasthan A.I.R. 1992 Raj. 99: (1992) 1 Raj.L.W. 579; Percy Pinto v. R.T.A.D.K. A.I.R. 1990 Karn. 117.

81. Duration and renewal of permits. -(1)A permit other than a temporary permit issued under section 87 or a special permit issued under sub-section (8) of section 88 shall be effective ⁵³ [from the date of issuance or renewal thereof] for a period of five years.

Provided that where the permit is countersigned under sub-section (1) of section 88, such countersignature shall remain effective without renewal for such period so as to synchronize with the validity of the primary permit.

(2) A permit may be renewed on in application made not less than 15 days before the date of its expiry.

(3) Notwithstanding anything contained in sub-section (2), the Regional Transport Authority or the State Transport Authority, as the case may be, may entertain an application for the renewal of a permit after the last date specified in that sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.

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

(a) the financial condition of the applicant as evidenced by insolvency, or decrees for payment of debts remaining unsatisfied for a period of thirty days, prior to the date of consideration of the application ;

(b) the applicant had been punished twice or more for any of the following offences within twelve months reckoned from fifteen days prior to the date of

(c) consideration of the application committed as a result of the operation of a stage carriage service by the applicant, namely :-

(i)plying any vehicle -

(1) without payment of tax due on such vehicle ;

(2) without payment of tax during the grace period allowed for payment of such tax and then stop the plying of such vehicle ;

(3) on any unauthorized route ;

(ii)making unauthorized trips:

Provided that in computing the number of punishments for the purpose of clause (b), any punishment stayed by the order of an appellate authority shall not be taken into account :

Provided further that no application under this sub-section shall be rejected unless an opportunity of being heard is given to the applicant.

53. Substituted, by S. 26, *ibid*, for "without renewal" (w.e.f. 14-11-1994).

(5) Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (d) of section 87, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded.

Corresponding Law.- Section 81 corresponds to section 58 of the motor vehicles act, 1939.

Objects and Reasons. - Clause 81 lays down the validity of a permit of any kind as 5 years. It also provides for the renewal of the permit for 5 years, the time within which application for renewal of permit should be submitted to the transport authorities and the conditions subject to which the permit may be renewed automatically.

NOTES

Date from which permit to be effective. – Renewal of a permit takes effect from the date of its actual renewal, and not from the date of the permit's expiry: Madhya Pradesh State Road Transport Corporation v. State Transport Appellate Authority A.I.R. 1974 Madh. Pra. 131 (D.B).

82. Transfer of permit. - (1) Save as provided in sub-section (2), a permit shall not be transferable from one person to another except with the permission of the transport authority which granted the permit and shall not, without such permission, operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorized by the permit.

(2) Where the holder of a permit dies, the person succeeding to the possession of the vehicle covered by the permit may, for a period of three months, use the permit as if it had been granted to himself :

Provided that such person has, within thirty days of the death of the holder, informed the transport authority which granted the permit of the death of the holder and of his own intention to use the permit:

Provided further that no permit shall be so used after the date on which it would have ceased to be effective without renewal in the hands of the deceased holder.

(3) The transport authority may, on application made to it within three months of the death of the holder of a permit, transfer the permit to the person succeeding to the possession of the vehicles covered by the permit :

Provided that the Transport Authority may entertain an application made after the expiry of the said period of three months if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.

Corresponding Law. - Section 82 (1) corresponds to section 59(1) and section 82 (2) corresponds to section 61 of the motor vehicles act, 1939.

Objects and Reasons. - Clause 83 enables the holder of the permit to replace the vehicles covered by the permit by another vehicle of the same nature with the permission of the transport authority which granted the permit.

83. Replacement of vehicles. - The holder of a permit may, with the permission of the authority by which the permit was granted, replace any vehicle covered by the permit by any other vehicle of the same nature.

Corresponding Law.- Section 83 corresponds to section 59(2) of the motor vehicles act, 1939.

Objects and Reasons. - Clause 83 enables the holder of the permit to replace the vehicles covered by the permit by another vehicle of the same nature with the permission of the transport authority which granted the permit.

84. General conditions attaching to all permits. - The following shall be conditions of every permit –

- (a) that the vehicle to which the permit relates carries valid certificate of fitness issued under section 56 and is at all times so maintained as to comply with the requirements of this Act and the rules made thereunder ;
- (b) that the vehicle to which the permit relates is not driven at a speed exceeding the speed permitted under this Act ;
- (c) that any prohibition or restriction imposed any fares or freight fixed by notification made under section 67 are observed in connection with the vehicle to which the permit relates ;
- (d) that the vehicle to which the permit relates is not driven in contravention of the provisions of section 5 or section 113 ;
- (e) that the provisions of this Act limiting the hours of work of drivers are observed in connection with any vehicle or vehicles to which the permit relates;
- (f) that the provisions of Chapter X, XI and XII so far as they apply to the holder of the permit are observed ; and
- (g) that the name and address of the operator shall be painted or otherwise firmly affixed to every vehicle to which the permit relates on the exterior of the body of that vehicle on both sides thereof in a colour or colours vividly contrasting to the colour of the vehicle centered as high as practicable below the window line in bold letters.

Corresponding Law.- Section 84 corresponds to section 59(3) of the motor vehicles act, 1939.

Objects and Reasons. - Clause 84 prescribes general conditions attaching to all kinds of permit.

85. General form of permits. - Every permit issued under this Act shall be complete in itself and shall contain all the necessary particulars of the permit and the conditions attached thereto.

Corresponding Law.- Section 85 corresponds to section 59-A of the motor vehicles act, 1939.

Objects and Reasons .- Clause 85 lays down the general form of permit.

86. Cancellation and suspension of permits.- (1) The Transport Authority which granted a permit may cancel the permit or may suspend it for such period as it thinks fit –

- (a) on the breach of any condition specified in section 84 or of any condition contained in the permit, or
- (b) if the holder of the permit uses or causes or allows a vehicle to be used in any manner not authorized by the permit, or
- (c) if the holder of the permit ceases to own the vehicle covered by the permit, or
- (d) if the holder of the permit has obtained the permit by fraud or misrepresentation, or
- (e) if the holder of the goods carriage permit, fails without reasonable cause, to use the vehicle for the purposes for which the permit was granted, or

- (f) if the holder of the permit acquires the citizenship of any foreign country :
 Provided that no permit shall be suspended or cancelled unless an opportunity has been given to the holder of the permit to furnish his explanation.
- (2) The Transport Authority may exercise the powers conferred on it under sub-section (1) in relation to a permit granted by any authority or person to whom power in this behalf has been delegated under sub-section (5) of section 68 as if the said permit was a permit granted by the Transport Authority.
- (3) Where a Transport Authority cancels or suspends a permit, it shall give to the holder in writing its reasons for the action taken.
- (4) The powers exercisable under sub-section (1) (other than the power to cancel a permit) by the Transport Authority which granted the permit may be exercised by any authority or person to whom such powers have been delegated under sub-section (5) of section 68.
- (5) Where a permit is liable to be cancelled or suspended under clause (a) or clause (b) or clause (e) of sub-section (1) and the Transport Authority is of opinion that having regard to the circumstances of the case, it would not be necessary or expedient so to cancel or suspend the permit if the holder of the permit agrees to pay a certain sum of money, than notwithstanding anything contained in sub-section (1), the Transport Authority may, instead of cancelling or suspending the permit, as the case may be, recover from the holder of the permit the sum of money agreed upon.
- (6) The powers exercisable by the Transport Authority under sub-section (5) may, where an appeal has been preferred under section 89, be exercised also by the appellate authority.
- (7) In relation to a permit referred to in sub-section (9) of section 88, the powers exercisable under sub-section (1) (other than the power to cancel a permit) by the Transport Authority which granted the permit, may be exercised by any Transport

Authority and any authority or persons to whom power in this behalf has been delegated under sub-section (5) of section 68, as if the said permit was a permit granted by any such authority or persons.

Corresponding Law.- Section 86 corresponds to section 60 of the motor vehicles act, 1939.

Objects and Reasons. - Clause 86 seeks to empower the transport authority which granted the permit to cancel the permit or suspend it for a specified period for the breach of the conditions of the permit or for specific offences specified in this clause. It also confers powers on the transport authority to permit compounding of offences under this clause by recovering the money agreed upon from the permit holder in lieu of the suspension or cancellation of the permit.

87. Temporary permits. - (1) A Regional Transport Authority and the State Transport Authority may without following the procedure laid down in section 80, grant permits, to be effective for a limited period which shall, not in any case exceed four month, to authorize the use of a transport vehicle temporarily –

- (a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or
- (b) for the purposes of a seasonal business, or
- (c) to meet a particular temporary need, or
- (d) pending decision on an application for the renewal of a permit, and may attach to any

such permit such condition as it may think fit :

Provided that a Regional Transport Authority or, as the case may be, State Transport Authority may, in the case of goods carriages, under the circumstances of an exceptional nature, and for reasons to be recorded in writing, grant a permit for a period exceeding four months, but not exceeding one year.

(2) Notwithstanding anything contained in sub-section (1), a temporary permit may be granted thereunder in respect of any route or area where –

(i) no permit could be issued under section 72 or section 74 or section 76 or section 79 in respect of that route or area by reason of an order of a Court or other competent authority restraining the issue of the same, for a period not exceeding the period for which the issue of the permit has been so restrained; or

(ii) as a result of the suspension by a Court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit in respect of that route or area, or there is no adequate number of such vehicles in respect of that route or area, for a period not exceeding the period of such suspension :

Provided that the number of transport vehicles in respect of which temporary permits are so granted shall not exceed the number of vehicles in respect of which the issue of the permits have been restrained or, as the case may be, the permit has been suspended.

Corresponding Law. - Section 87 corresponds to section 62 of the motor vehicles act, 1939.

Objects and Reasons. - Clause 87 confers upon the transport authorities the power to issue temporary permits to transport vehicles for a limited period for the use of the vehicle temporarily for certain specified purposes.

88. Validation of permits for use outside region in which granted. - (1) Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region, and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned :

Provided that a goods carriage permit, granted by the Regional Transport Authority of any one region, for any area in any other region or regions within the same State, shall be valid in that area without the countersignature of the Regional Transport Authority of the other region or of each of the other regions concerned :

Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometers, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State:

Provided also that –

(a) where a motor vehicle covered by a permit granted in one State is to be used for the purposes of defense in any other State, such vehicle shall display a certificate, in such form, and issued by such Authority, as the Central Government may, by notification in the Official Gazette, specify, to the effect that the vehicle shall be used for the period specified therein exclusively for the purposes of defense; and

(b) any such permit shall be valid in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport

Authority of that other State.

(2) Notwithstanding anything contained in sub-section (1), a permit granted or countersigned by a State Transport Authority shall be valid in the whole State or in such regions within the State as may be specified in the permit.

(3) A Regional Transport Authority when countersigning the permit may attach to the permit any condition which it might have imposed if it had granted the permit and may likewise vary any condition attached to the permit by the authority by which the permit was granted.

(4) The provisions of this Chapter relating to the grant, revocation and suspension of permits shall apply to the grant, revocation and suspension of countersignatures of permits.

Provided that it shall not be necessary to follow the procedure laid down in section 80 for the grant of countersignatures of permits, where the permits granted in any one State are required to be countersigned by the State Transport Authority of another State or by the Regional Transport Authority concerned as a result of any agreement arrived at between the States after complying with the requirements of sub-section (5).

(5) Every proposal to enter into an agreement between the States to fix the number of permits which is proposed to be granted or countersigned in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette and in any one or more of the newspapers in regional language circulating in the area or route proposed to be covered by the agreement together with a notice of the date before which representations in connection therewith may be submitted, and the date not being less than thirty days from the date of publication in the Official Gazette, on which, and the authority by which, and the time and place at which, the proposal and any representation received in connection therewith will be considered.

(6) Every agreement arrived at between the States shall, insofar as it relates to the grant of countersignature of permits, be published by each of the State Governments concerned in the Official Gazette and in any one or more of the newspaper in the regional language circulating in the area or route covered by the agreement and the State Transport Authority of the State and the Regional Transport Authority concerned shall give effect to it.

(7) Notwithstanding anything contained in sub-section (1), a Regional Transport Authority of one region may issue a temporary permit under section 87 to be valid in another region or State with the concurrence, given generally or for the particular occasion, of the Regional Transport Authority of that other region or of the State Transport Authority of that other State, as the case may be.

(8) Notwithstanding anything contained in sub-section (1), but subject to any rules that may be made under this Act by the Central Government, the Regional Transport Authority of any one region or, as the case may be, the State Transport Authority, may, for the convenience

of the public, ⁵⁴ [grant a special permit to any public service vehicle including any vehicle covered] by a permit issued under section 72 (including a reserve stage carriage) or under section 74 or under sub-section (9) of this section for carrying a passenger or passengers for hire or reward under a contract, express or implied, for the use of the vehicle as a whole without stopping to pick up or set down along the line of route passengers not included in the contract, and in every case where such special permit is granted, the Regional Transport Authority shall assign to the vehicle, for display thereon, a special distinguishing mark in the form and manner specified by the Central Government and such special permit shall be valid in any other region or

State without the countersignature of the Regional Transport Authority of the other region or of the State Transport Authority of the other State, as the case may be.

(9) Notwithstanding anything contained in sub-section (10) but subject to any rules that may be made by the Central Government under sub-section (14), any State Transport Authority may, for the purpose of promoting tourism, grant permits in respect of tourist vehicles valid for the whole of India, or in such contiguous States not being less than three in number including the State in which the permit is issued as may be specified in such permit in accordance with the choice indicated in the application and the provisions of sections 73, 74, 80, 81, 82, 83, 84, 85, 86,⁵⁵ [clause (d) of sub-section (1) of section 87 and section 89] shall, as far as may be, apply in relation to such permits.

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(11) The following shall be conditions of every permit granted under sub-section (9), namely :-

- (i) every motor vehicle in respect of which such permit is granted shall conform to such description, requirement regarding the seating capacity, standards of comforts, amenities and other matters, as the Central Government may specify in this behalf ;
- (ii) every such motor vehicle shall be driven by person having such qualifications and satisfying such conditions as may be specified by the Central Government ; and
- (iii) such other conditions as may be prescribed by the Central Government.

54. Substituted for “grant a special permit in relation to a vehicle covered” by Act 54 of 1994, S. 27 (w.e.f. 14-11-1994).

55. Substituted, *ibid*, for “and 89” (w.e.f. 14-11-1994).

56. Sub-S. (100 omitted, *ibid* (w.e.f. 14-11-1994). Prior to its omission, sub-S.(10) read as under :- “(10) Without prejudice to the provisions of section 74, the State Transport Authority shall, in considering an application for a permit under sub-section (9) in respect of tourist vehicles other than motor cabs have regard to the following matters, namely :-

(a) no such permit shall be issued –

(i) to an individual owner so as to exceed ten such valid permits in his own name, (ii) to a company so as to exceed twenty such valid permits in its own name ;

(b) the restriction under clause (a) regarding the number of permits to be granted shall not apply to the India Tourism Development Corporation, State Tourism Development Corporations, State Tourism Departments or State Transport undertakings ;

(c) in computing the number of permits for the purposes of clause (a), the number of permits held by an applicant in the name of any other person and the permits held by any company of which such applicant is a director shall also be taken into account.

Explanation .- For the purposes of this sub-section and sub-section (13), “company” means a body corporate, and includes a firm or other association of individuals, and “director”, in relation to a firm, means a partner in the firm”.

57. Substituted for “and 89” by Act 54 of 1994, S. 27 (w.e.f. 14-11-1994).

(12) Notwithstanding anything contained in sub-section (1), but, subject to the rules may be made by the Central Government under sub-section (14), the appropriate authority may, for the purpose of encouraging long distance inter-State road transport, grant in a State, national permits in respect of goods carriage and the provisions of sections 69,77,79,80,81,82,83,84,85,86, ⁵⁷[clause (d) of sub-section (1) of section 87 and section 89] shall, as far as may be, apply to or in relation to the grant of national permits.

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(14)(a) The Central Government may make rules for carrying out the provisions of this section.

(b) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

(i) the authorization fee payable for the issue of a permit referred to in sub-section (9) and (12) ;

(ii) the fixation of the laden weight of the motor vehicle ;

(iii) the distinguishing particulars or marks to be carried or exhibited in or on the motor vehicle ;

(iv)The color or colors in which the motor vehicle is to be painted;

(v)such other matters as the appropriate authority shall consider in granting a national permit.

Explanation. - In this section, -

(a) “appropriate authority” , in relation to a national permit, means the authority which is authorized under this Act to grant a goods carriage permit ;

(b) “authorization fee” means the annual fee, not exceeding one thousand rupees, which may be charged by the appropriate authority of a State of enable a motor vehicle, covered by the permit referred to in sub-section (9) and (12) to be used in other States subject to the payment of taxes or fees, if any, levied by the States concerned ;

(c) “national permit” means a permit granted by the appropriate authority to goods carriages to operate throughout the territory of India or in such contiguous States not being less than four in number, including the State in which the permit is issued as may be specified in such permit in accordance with the choice indicated in the application.

58. Sub-S. (13) omitted, *ibid* (w.e.f. 14-11-1994). Prior to its omission, sub-S. (13) read as under :-

“(13) The appropriate authority shall, in considering an application for a national permit, have regard to the following matters, namely:-

(a)no national permit shall be issued –

(i) to an individual owner so as to exceed five national permits in its own name ; (ii) to a company so as to exceed ten valid national permits in its own name ;

(b) the restriction under clause (a) regarding the number of permits to be issued shall not apply to the State transport undertakings ;

(c) in computing the number of permits for the purposes of clause (a), the number of permits held by an applicant in the name of any other person and the permits held by any company of which such applicant is a director shall also be taken into account.”

Corresponding Law. - Section 88 corresponds to section 63 of the motor vehicles act, 1939.

Objects and Reasons. - Clause 88 lays down the procedure for validation for use outside the region in which the permit is granted, for entering into an agreement between the States regarding the number of permits to be granted or counter-signed in each State on inter-State routes, for the issue of temporary permits to be valid in another State without the process of counter-signature in the other State, it also provides that national permit for goods carriages issued in one state and permits for tourist vehicle issued in one state shall without counter signature in other state be valid throughout India, without a limit in the number of vehicles for which such permits may be granted but with certain limit on the holding of such permits by both individuals and companies.

89. Appeals. – (1) Any person –

(a) aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him, or

(b) aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or

(c) aggrieved by the refusal to transfer the permit under section 82, or

(d) aggrieved by the refusal of the State or a Regional Transport Authority to countersign a permit, or by any condition attached to such countersignature, or

(e) aggrieved by the refusal of renewal of a permit, or

(f) aggrieved by the refusal to grant permission under section 83, or

(g) aggrieved by any other order which may be prescribed, may, within the prescribed time and in the prescribed manner, appeal to the State transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final.

⁵⁹

[(2) The State Government shall constitute such number of Transport Appellate Tribunals as it thinks fit and each such Tribunal shall consist of a judicial officer who is not below the rank of a District Judge or who is qualified to be a judge of the High Court and it shall exercise jurisdiction within such area as may be notified by that Government.]

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), every appeal pending at the commencement of this Act, shall continue to be proceeded with and disposed of as if this Act had not been passed.

Explanation .- For the removal of doubts, it is hereby declared that when any order is made by the State Transport Authority or the Regional Transport Authority in pursuance of a direction issued by the Inter-State Transport commission under clause (c) of sub-section (2) of section 63-A of the Motor Vehicles Act, 1939, as it stood immediately before the commencement of this Act, and any person feels aggrieved by such order on the ground that it is not in consonance with such direction, he may appeal under sub - section (1) to the State Transport Appellate Tribunal against such **Corresponding Law.** - Section 89 corresponds to section 64 of the motor vehicles act, 1939.

59. Sub-S. (2) substituted by Act 54 of 1994, S. 28 (w.e.f. 14-11-1994). Prior to its substitution, sub-S. (2) read as under :-

“(2) The State Government shall constitute for the State, a State Transport Appellate Tribunal which

shall consist of a judicial officer who is not below the rank of a District Judge, or who is qualified to be a judge of a High Court :

Provided that in relation to a Union territory, the Tribunal may consist of the Administrator of that territory or any officer who has judicial experience”.

Objects and Reasons. - Clause 89 contains provisions for constitution by the State Governments, State Transport Appellate Tribunals for hearing of appeals filed by aggrieved persons, against the orders passed by the Transport authorities and lays down the nature of orders that can be taken on appeal.

NOTES

Applicability of section 5 of the Limitation Act. – S.5 of the Limitation Act has not been made applicable by the Motor Vehicles Act and as such, S.5 will not apply to an appeal filed under S. 64 of the Motor Vehicles Act, 1939: P. Prasad v. State Transport Authority a956 B.L.J.R. 711: A.I.R. 1957 Pat. 117; Laxmi Chand v. State of Rajasthan A.I.R. 1976 Raj. 197; Pradeep v. State Transport Authority A.I.R. 1996 Ker. 90: (1996) 1 Acc. C.C. 145

90. Revision. - The State Transport Appellate Tribunal may, on an application made to it, call for the record of any case in which an order has been made by a State Transport Authority or Regional Transport Authority against which no order by not against the direction so issued.

appeal lies, and if it appears to the State Transport Appellate Tribunal that the order made by the State Transport Authority or Regional Transport Authority is improper or illegal, the State Transport Appellate Tribunal may pass such order in relation to the case as it deems fit and every such order shall be final :

Provided that the State Transport Appellate Tribunal shall not entertain any application from a person aggrieved by an order of a State Transport Authority or Regional Transport Authority, unless the application is made within thirty days from the date of the order :

Provided further that the State Transport Appellate Tribunal may entertain the application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by good and sufficient cause from making the application in time :

Provided also that the State Transport Appellate Tribunal shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

Corresponding Law. - Section 90 corresponds to section 64 – A of the motor vehicles Act, 1939.

Object and Reasons. - Clause 90 provides for filling of revision petition before State Transport Appellate Tribunal by the aggrieved persons on matters where no appeal is provided in clause 89.

NOTES

Person entitled to file revision – In case order is improper or illegal, question of a person aggrieved does not arise. – In the main section there is no mention of “a person aggrieved” who can file application before the Appellate Tribunal. It merely says that the Appellate Tribunal may on an application made to it call for the record of any case in which an order has

been made by a State Transport Authority or Regional Transport Authority against which no appeal lies. The main section further empowers the Appellate Tribunal to pass such order in relation to the case if it appears that the order made by the State Transport Authority or Regional Transport Authority is improper or illegal. Therefore, the State Transport Authority Appellate Tribunal can interfere with any order of the State Transport Authority or Regional Transport Authority if it is improper or illegal. In such cases the question of a person aggrieved does not arise. The first proviso is with regard to the period of limitation within which the revision is to be filed: Mohanan v. R.T.A. (2001) 1 Acc. C.C. 330: (2000) 1 Ker. L.J. 819 (Ker.).

91. Restriction hours of work of drivers. - ⁶⁰ [(1) The hours of work of any person engaged for operating a transport vehicle shall be such as provided in the Motor Transport Workers Act, 1961 (27 of 1961)].

(2) A State Government may, by notification in the Official Gazette, grant such exemptions from the provisions of sub-section (1) as it thinks fit, to meet cases of emergency of delays by reason of circumstances which could not be foreseen.

(3) A State Government or, if authorized in this behalf by the State Government by rules made under section 96, the State or a Regional Transport Authority may require persons employing any person whose work is subject to any of the provision of sub-section (1) to fix beforehand the hours of work of such persons so as to conform to those provisions, and may provide for the recording of the hours so fixed.

(4) No person shall work or shall cause or allow any other person to work outside the hours fixed or recorded for the work of such persons under sub-section (3),

(5) A State Government may prescribe the circumstances under which and the period during which the driver of a vehicle although not engaged in work is required to remain on or near the vehicle may be deemed to be an interval for rest within the meaning of sub-section (1).

Corresponding Law. - Section 91 corresponds to section 65 of the motor vehicles Act, 1939.

Object and Reasons . - Clause 91 prohibits the driving of motor vehicles by a person for more than certain hours in a day and the hours of rest the driver should take after certain hours of continuous driving.

60. Sub-S. (1) substituted by Act 54 of 1994, S. 29 (w.e.f. 14-11-1994). Prior to its substitution, sub-S. (1) read as under :-

“(1) No person shall cause or allow any person who is employed by him for the purpose of driving a transport vehicle or who is subject to his control for such purpose to work –

(a) for more than five hours before he has had an interval of rest of at least half an hour; or

(b) for more than eight hours in one day ; or

(c) for more than forty-eight hours in any week.”

92. Voidance of contracts restrictive of liability. - Any contract for the conveyance of a passenger in a stage carriage or contract carriage, in respect of which a permit has been issued under this Chapter, shall, so far as it purports to negative or restrict the liability of any person in respect of any claim made against that person in respect of the death of, or bodily injury to, the passenger while being carried in, entering or alighting from the vehicle, or purports to impose any conditions with respect to the enforcement of any such liability, be void.

Corresponding Law. - Section 92 corresponds to section 66 of the motor vehicles Act, 1939.

Object and Reasons. - Clause 92 lays down any contract purporting to negative or restrict the liability in respect of claim against third party risk, shall be void.

93. Agent or canvasser to obtain license. - (1) No person shall engage himself –

(i) as an agent or a canvasser, in the sale of tickets for travel by public service vehicle or in otherwise soliciting customers for such vehicles, or

(ii) as an agent in the business of collecting, forwarding or distributing goods carried by goods carriages, unless he has obtained a license from such authority and subject to such conditions as may be prescribed by the State Government.

(2) The conditions referred to in sub-section (1), may include all or any of the following matters, namely :-

(a) the period for which a license may be granted or renewed ;

(b) the fee payable for the issue or renewal of the license ; (c) the deposit of security –

(i) of a sum not exceeding rupees fifty thousand in the case of an agent in the business of collecting, forwarding or distributing goods carried by goods carriages ;

(ii) of a sum not exceeding rupees five thousand in the case of any other agent or canvasser, and the circumstances under which the security may be forfeited ;

(d) the provision by the agent of insurance of goods in transit ;

(e) the authority by which and the circumstances under which the license may be suspended or revoked ;

(f) such other conditions as may be prescribed by the State Government.

(3) It shall be a condition of every license that no agent or canvasser to whom the license is granted shall advertise in any newspaper, book, list, classified directory or other publication unless there is contained in such advertisement appearing in such newspaper, book, list, classified directory or other publication the license number, the date of expiry of license and the particulars of the authority which granted the license.

Corresponding Law. - Section 93 corresponds to section 66 – A of the motor vehicles Act, 1939.

Object and Reasons. - Clause 93 provides for licensing of goods booking agents and travel agents, security deposit and fees for the application, authorities who may issue such licenses, suspension and cancellation of such licenses and provision for appeal. It also provides that any advertisement by the agents or canvassers should contain the license number and the authority who issued the license.

94. Bar on jurisdiction of Civil Courts. - No Civil Court shall have jurisdiction to entertain any question relating to the grant of a permit under this Act, and no injunction in respect of any action taken or to be taken by the duly constituted authorities under this Act with regard to the grant of a permit, shall be entertained by any Civil Court.

Corresponding Law. - This is a new provision in the 1988 Act.

Object and Reasons. - Clause 94 bars the jurisdiction of Civil Court in matter relating to grant of permit under this Act.

95. Power of State Government to make rules as to stage carriages and contract carriages - (1) A State Government may make rules to regulate, in respect of stage carriages and contract carriages and the conduct of passengers in such vehicles.

(2) Without prejudice to the generality of the foregoing provision, such rules may –

(a) authorize the removal from such vehicle of any person contravening the rules by the driver or conductor of the vehicle, or, on the request of the driver or conductor, or any passenger, by any police officer ;

(b) require a passenger who is reasonably suspected by the driver or conductor of contravening the rules to give his name and address to a police officer or to the driver or conductor on demand.

(c) Require a passenger to declare, if so demanded by the driver or conductor, the journey he intends to take or has taken in the vehicle and to pay the fare for the whole of such journey and to accept any ticket issued therefore;

(d) Require, on demand being made for the purpose by the driver or conductor or other person authorized by the owners of the vehicle, production during the journey and surrender at the end of the journey by the holder thereof of any ticket issued to him ;

(e) Require a passenger, if so requested by the driver or conductor, to leave the vehicle on the completion of the journey the fare for which he has paid;

(f) Require the surrender by the holder thereof on the expiry of the period for which it is issued of a ticket issued to him;

(g) Require a passenger to abstain from doing anything which is likely to obstruct or interfere with the working of the vehicle or to cause damage to any part of the vehicle or its equipment or to cause injury or discomfort to any other passenger ;

(h) Require a passenger not to smoke in any vehicle on which a notice prohibiting smoking is exhibited.

(i) Require the maintenance of complaint books in stage carriages and prescribe the conditions under which passengers can record any complaints in the same.

Corresponding Law. - Section 95 corresponds to section 67 of the motor vehicles Act, 1939.

Object and Reasons. - Clause 95 empowers the State Government to make rules to regulate, in respect of stage carriage and contract carriages.

96. Power of State Government to make rules for the purposes of this Chapter .- (1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, rules under this section may be made with respect to all or any of the following matters, namely :-

(i) the period of appointment and the terms of appointment of and

- the conduct of business by Regional and State Transport Authorities and the reports to be furnished by them ;
- (ii) the conduct of business by any such authority in the absence of any member (including the Chairman) thereof and the nature of business which, the circumstances under which and the manner in which, business could so conducted ;
- (iii) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fee ;
- (iv) the forms to be used for the purpose of this Chapter, including the forms of permits ;
- (v) the issue of copies of permits in place of permits lost, destroyed or mutilated;
- (vi) the documents, plates and marks to be carried by transport vehicles, the manner in which they are to be carried and the languages in which any such documents are to be expressed ;
- (vii) the fees to be paid in respect of applications for permits, duplicate permits and plates;
- (viii) the exemption of prescribed persons or prescribed classes of persons from payment of all or any or any portion of the fees payable under this Chapter.
- (ix) The custody, production and cancellation on revocation or expiration of permits, and the return of permits which have been cancelled;
- (x) The conditions subject to which, and the extent to which, a permit granted in another State shall be valid in the State without countersignature;
- (xi) The conditions subject to which, and the extent to which, a permit granted in one region shall be valid in another region within the State without countersignature;
- (xii) The conditions to be attached to permits for the purpose of giving effect to any agreement such as is referred to in clause (iii) of sub-section (1) of section 67.
- (xiii) The authorities to whom, the time within which and the manner in which appeals may be made;
- (xiv) the construction and fittings of, and the equipment to be carried by, stage and contract carriages, whether generally or in specified areas;
- (xv) the determination of the number of passengers a stage or contract carriage is adapted to carry and the number which may be carried;
- (xvi) the conditions subjects to which goods may be carried on stage and contract carriages partly or wholly in lieu of passengers;
- (xvii) the safe custody and disposal of property left in a stage or contract carriage ;
- (xviii) regulating the painting or marking of transport vehicles and the display of advertising matter thereon, and in particular prohibiting the painting or marking of transport vehicles in such color or manner as to induce any person to believe that the vehicle is used for the transport of mails ;
- (xix) the conveyance in stage or contract carriages of corpses or persons suffering from any infectious or contagious disease or goods likely to cause discomfort or injury to passengers and the inspection and disinfection of such carriages, if used for such purpose;
- (xx) the provision of taxi meters on motor cabs requiring approval or standard types of taxi meters to be used and examining testing and sealing taxi meters ;
- (xxi) prohibiting the picking up or setting down of passengers by stage or contract carriages at specified places or in specified areas or at places other than duly notified stands or halting places and requiring the driver of a stage carriage to stop and remain stationary for a reasonable time when so required by a passenger desiring to board or alight from the vehicle at a notified halting place ;

- (xxii) the requirements which shall be complied with in the construction or use of any duly notified stand or halting place, including the provision of adequate equipment and facilities for the convenience of all users thereof ; the fees, if any, which may be charged for the use of such facilities, the records which shall be maintained at such stands or places, the staff to be employed thereat, and the duties and conduct of such staff, and generally for maintaining such stands and places in a serviceable and clean condition;
- (xxiii) the regulation of motorcar ranks;
- (xxiv) requiring the owners of transport vehicles to notify any change of address or to report the failure of or damage to any vehicle used for the conveyance of passengers for hire or reward;
- (xxv) authorizing specified persons to enter at all reasonable times and inspect all premises used by permit holders for the purposes of their business;
- (xxvi) requiring the person in charge of a stage carriage to carry any person tendering the legal or customary fare;
- (xxvii) the conditions under which and the types of containers or vehicles in which animals or birds may be carried and the seasons during which animals or birds may or may not be carried;
- (xxviii) the licensing of and the regulation of the conduct of agents or canvassers who engage in the sale of tickets for travel by public service vehicles or otherwise solicit customers for such vehicles;
- (xxix) the licensing of agents engaged in the business of collecting for forwarding and distributing goods carried by goods carriages;
- (xxx) the inspection of transport vehicles and their contents and of the permits relating to them;
- (xxxi) the carriage of persons other than the driver in goods carriages; (xxxii) the records to be maintained and the returns to be furnished by the owners of transport vehicles ; and
- (xxxiii) any other matter which is to be or may be prescribed.

Corresponding Law ;- Section 96 corresponds to section 68 of the motor vehicles Act, 1939.

Object and Reasons ;- Clause 96 provides that the State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.
