**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 15th OF NOVEMBER, 2022

WRIT PETITION NO. 20972 OF 2022

Between:-

SATISH ARORA S/O LATE SHRI DHANNA SINGH ARORA, AGED 46 YEARS, BUS OPERATOR, R/O 2/6 SHAWDAPRATAP ASHRAM, GWALIOR (MP)

…....PETITIONER

(BY SHRI ARVIND KUMAR DUDAWAT – SENIOR ADVOCATE WITH SHRI R.D. SHARMA – ADVOCATE, SHRI NEERENDRA SHARMA – ADVOCATE AND SHRI ARUN DUDAWAT – ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH THE PRINCIPAL SECRETARY, DEPARTMENT OF TRANSPORT BHOPAL (MADHYA PRADESH)**

2. **THE RTA, CHAMBAL DIVISION, MORENA, DISTRICT MORENA (MADHYA PRADESH)**

3. **AKHILENDRA SINGH PARMAR S/O SHRI LOKENDRA SINGH PARMAR, BUS OPERATOR, R/O WARD NO. 9, SHIVAJI NAGAR, BHIND,**

DISTRICT BHIND (MADHYA PRADESH)

....RESPONDENTS

(SHRI A.K. NIRANKARI – GOVERNMENT ADVOCATE FOR STATE)
SHRI N.K. GUPTA – SENIOR ADVOCATE WITH SHRI M.S. JADON – ADVOCATE FOR RESPONDENT NO. 3)

This petition coming on for hearing this day, the Court passed the following:

ORDER

This petition under Article 226 of the Constitution of India has been filed against the order dated 07.09.2022 passed by Chairman, MP STAT, Gwalior in Revision No.131/2022, by which the revision filed by the respondent No. 3 has been allowed and the permit issued in favour of the petitioner on 25.04.2022 for plying Bus on Bhind to Gwalior route has been set aside.

2. Challenging the order passed by the STAT, it is submitted by the counsel for the petitioner that on 05.09.2018, the petitioner filed an application for grant of permit for plying Bus bearing registration No.MP14-P-0262 on Bhind-Gwalior-Bhind route. The case was heard on 14.09.2018 and was reserved for orders. However, no date for delivery of order was given. It appears that the order dated 04.10.2018 was passed thereby granting permit in favour of the petitioner in respect of the aforesaid route for plying Bus No.MP14-P-0262, but the said order was never communicated to the petitioner. Thereafter, on 28.01.2019 one Harishankar Singh Patel filed a revision against the order dated 04.10.2018. The petitioner appeared in the said revision and only

thereafter he came to know that permit on the above-mentioned route for plying Bus No.MP14-P-0262 has already been granted by order dated 04.10.2018, therefore, he verbally requested the competent authority to permit the petitioner to lift the permit, but because of pendency of revision filed by Harishankar Singh, competent authority verbally refused to issue permit. Thereafter, Harishankar Singh withdrew the revision. In the meanwhile, on 06.04.2022 the petitioner moved an application for grant of permission to lift the permit and, accordingly, by order dated 25.04.2022 the permit was issued in the name of the petitioner. It is submitted that it is not out of the place to mention here that in the year 2018, when the petitioner moved an application for grant of permit, respondent No. 3 was neither co-applicant nor the objector. However, it appears that on 21.12.2020 the respondent No. 3 at a later stage also applied for grant of permit for the same route. The said application was rejected on 01.02.2021. It is submitted that since the respondent No. 3 was neither co-applicant nor the objector to his application for grant of permit which was filed on 04.10.2018, therefore, he has no locus to challenge the order dated 25.04.2022, by which the permit was issued to the petitioner. It is submitted that as per Rule 74(3) of the M.P. Motor Vehicle Rules, it is obligatory on the part of the authority to communicate the order passed on the application for grant of permit. Since the order was never communicated, therefore, there was no occasion for the petitioner to apply for issuance of permit and therefore, there was some delay on the part of the petitioner in lifting the permit. It is submitted that the word “communication” as mentioned in Rule 74(3) of M.P. Motor Vehicles Rules, 1994 (in short “Rules, 1994”) is mandatory and,

therefore, no adverse inference can be drawn against the petitioner if the petitioner could not lift the permit for want of communication. It is submitted that when a statute provides for performance of an act in a particular manner, then the said act should be performed in the same manner and no short cut can be adopted and, therefore, in absence of any communication of order dated 04.10.2018 by registered post, it cannot be said that there was any default or delay on the part of the petitioner. It is further submitted by the counsel for the petitioner that in the order dated 04.10.2018, by which the petitioner was granted permit, there was no condition that the said permit would lapse if it is not lifted within a stipulated period from the date of communication and in the light of the Rule 75 of the Rules, 1994, permit would not lapse merely on the ground that the person concerned did not lift the permit within a reasonable period unless and until, it is specifically revoked. A permit once granted would continue to be a valid permit for the period for which it has been granted and the life of the said permit cannot be curtailed merely on the ground that it was not lifted within the stipulated period unless and until such condition is imposed in the order granting permit itself. Since there was no such condition in the order dated 04.10.2018, therefore, even otherwise permit granted in favour of the petitioner would not come to an end and it shall continue to have its life till the period of its validity. To buttress his contention, counsel for the petitioner had relied upon the order passed in the case of **Haji Mustaque Ahmad Vs. The State Transport Appellate Tribunal and others in W.P. No.4883/2008 (Gwalior)** and judgment passed by the Supreme Court in the case of **Raja Harish Chandra Raj Singh Vs. Deputy Land Acquisition**

Officer and another reported in **AIR 1961 SC 1500, Rajasthan State Road Transport Corporation Vs. State Transport Appellate Tribunal** reported in **AIR 1999 (Raj) 111, Devadoss (dead) by LRs. and another Vs. Veera Makali Amman Koil Athalur** reported in **AIR 1998 SC 750** and judgment passed by this Court in the case of **Gurinder Singh Atwal Vs. State of MP and others** reported in **(2019) 4 MPJR 103.**

3. Per contra, the petition is vehemently opposed by the counsel for the respondent No. 3. It is submitted by the counsel for the respondent No. 3 that malafide actions of the petitioner are writ large right from the very beginning. He made an application for grant of permit on 05.09.2018 and permit was granted by order dated 04.10.2018. He deliberately did not lift the permit and was sitting idle. Harishankar Singh purportedly filed a revision against the order dated 04.10.2018, which appears to be a result of connivance with the petitioner. The said revision was filed on 28.01.2019. Even after receiving notice of the said revision, the petitioner never applied for permission to lift the permit and all the time, he was sitting idle. In the meanwhile, on 27.01.2021 respondent No. 3 also applied for grant of permit for the same route. The said application was rejected by order dated 01.02.2021 on the ground that timings proposed by the petitioner will come in direct conflict with the permit granted to one Ramkishore Gaur. Against the order dated 01.02.2021, the respondent No. 3 preferred an appeal which was registered as Appeal No.48/2021 and the said appeal was allowed by order dated 09.03.2022 and the order passed by RTA on 01.02.2021 was set aside and the matter was remanded back. Thereafter, RTA, Chambal Division, Morena again rejected the application by its order dated

25.04.2022 on the ground that the timings proposed by the respondent No. 3 are in direct conflict with the timings of permit granted to Harishankar Singh and even the timings sought by the respondent No. 3 in its application for permanent permit are same to that of the permit sought by the petitioner. Being aggrieved by the said order, the respondent No. 3 preferred an appeal before the STAT, Gwalior which again set aside the order passed by RTA, Chambal Division, Morena and again remanded the matter back to the RTA.

4. It is submitted that Harishankar Singh had preferred a revision on 28.01.2019 against the original order dated 04.10.2018 passed in favour of the petitioner. In the meanwhile, respondent No. 3 also preferred an application for grant of permit and proceedings in respect of those permits were pending and on 21.04.2022 Harishankar Singh withdrew his revision filed against original order dated 04.10.2018 passed in favour of the petitioner and only thereafter the petitioner had lifted the permit and, therefore, it cannot be said that the respondent No. 3 has no locus standi to challenge the order dated 25.04.2022, by which the permit was issued in favour of the petitioner on the basis of the order dated 04.10.2018.

5. It is further submitted that in fact, non-lifting of permit by the petitioner was a deliberate act. The petitioner had applied for grant of permit for plying Bus No.MP14-P-0262 and during the said period, the said Bus was not available to the petitioner as he was plying the same Bus on temporary permits.

6. The details of temporary permits granted to the petitioner in respect of Bus No. MP14-P-0262 have been filed as Annexure R-11. The petitioner had moved an application for grant of permit on 05.09.2018

and it is clear from the details of temporary permit issued in respect of Bus No.MP14-P-0262 that from 05.09.2018 till 09.09.2018 the said Bus was granted temporary permit for plying on Gwalior to Mehandipur Balaji route. Thereafter, from 10.09.2018 to 11.09.2018 the said Bus was again granted temporary permit for plying on Gwalior to Mehandipur Balaji route. On 21.09.2018 temporary permit was granted for plying on Morena to Orchha route. Thereafter on 25.09.2018 and 26.09.2018 temporary permit was granted to ply on Gwalior to Bhopal route. Thereafter on 29.09.2018 the said Bus was granted temporary permit to ply on Gwalior to Orchha route. On 30.10.2018 it was granted temporary permit to ply on Gwalior to Orchha route. On 03.11.2018 temporary permit was granted to ply on Gwalior to Orchha route. Thereafter, from 10.11.2018 to 13.11.2018 the Bus was granted temporary permit to ply on Gwalior to Mehandipur Balalji route. On 14.11.2018, the Bus was granted temporary permit to ply on Gwalior to Fatehpur Seekri route. From 15.11.2018 to 17.11.2018 again Bus was granted temporary permit to ply on Gwalior to Orchha route. Thereafter, from 23.11.2018 to 24.11.2018, the Bus was granted temporary permit to ply on Gwalior to Oraiya route. Then from 30.11.2018 to 01.12.2018, the Bus was granted temporary permit to ply on Gwalior to Mehandipur Balaji route. From 05.12.2018 to 08.12.2018 it was again granted temporary permit to ply on Gwalior to Mehandipur Balaji route. Then on 10.12.2018 to 11.12.2018 the Bus was granted temporary permit to ply on Gwalior to Guna route. On 12.12.2018 to 13.12.2018 the Bus was granted temporary permit to ply on Gwalior to Lucknow route. Thereafter, on 15.12.2018 to 16.12.2018 again the Bus was granted temporary permit to ply on

Gwalior to Fatehpur Seekri route. Thereafter, from 23.12.2018 to 24.12.2018 the Bus was granted temporary permit to ply on Gwalior to Delhi route. It is further submitted that there are other details of temporary permits by which the Bus was granted temporary permit to ply on various routes. Thus, it is clear that in order to obtain temporary permit, the petitioner must be approaching the office of RTA and it is incorrect to say that he was not aware of the passing of the order dated 04.10.2018. It is further submitted that in fact, the whole intention of the petitioner was to block the route by obtaining permit and was not interested to ply the Bus on the said route. If the petitioner was so eager to ply his Bus on Bhind to Gwalior route, then he could have easily verified from the office of RTA about the status of his application. Furthermore, when the revision was filed by Harishankar Singh, petitioner did not move an application for lifting the permit and moved the said application for the first time on 06.04.2022. It is further submitted that the petitioner has given the different excuses for not lifting the permit.

7. It is further submitted that it is not the case of the petitioner that Bus was available and he was ready to ply his Bus on Bhind to Gwalior route. On the contrary, it is submitted that the petitioner was already earning money by plying the said Bus on temporary permit routes granted by the authority from time to time and the details of which have already been annexed by the respondent as Annexure R-11. It is further submitted that the permit was issued on 25.04.2022 and till the impugned order dated 07.09.2022, the petitioner has not plied the Bus on Bhind to Gwalior route which clearly shows that he is not interested to ply the

Bus. It is true that the respondent No. 3 was not co-applicant along with the petitioner, but during the pendency of the revision filed by Harishankar Singh, the petitioner had also filed an application for grant of permit for the same route and same timings, thus, he also became the claimant for grant of permit for the same route. Under the peculiar facts and circumstances of the case, it cannot be said that the petitioner had no locus standi to challenge the order dated 25.04.2022 by which the permit was issued to the petitioner.

8. In reply, it is submitted by the counsel for the petitioner that multiple stage carriage permits can be issued for the same route as well as for same timings and, therefore, there is no bar that two Buses cannot ply on the same route at the same timings.

9. By way of rejoinder, it is submitted by the counsel for the respondent No. 3 that the reasons and object of Motor Vehicles Act is to provide best maximum facilities to the passengers and it cannot be used for blocking the specific timings of route by obtaining permit and not lifting the same. This act of the petitioner has adversely effected the interest of the passengers.

10. It is further submitted that in order to avoid clash of timings for the safety of passengers, it is neither advisable nor feasible to grant various permits for the same route and for the same timings because this situation may result in rash and negligent driving. Further, his application was also rejected primarily on the ground of clash of timings.

11. Counsel for the respondent No. 3 has relied upon the judgments passed by the Division Bench of this Court in the cases of **Sitaram Sadho Vs. State Transport Appellate Tribunal and others in W.P.**

No.1690/1996 and **Sheikh Mohd. Anees Vs. State of M.P. And others in WA No.806/2019** and judgments passed by the Supreme Court in the case of **V. Chandrasekaran and another Vs. Administrative Officer and others** reported in **(2012) 12 SCC 133, Rajasthan Housing Board Vs. New Pink City Nirman Sahkari Ltd. & Anr.** reported in **(2015) 7 SCC 601, Popat Bahiru Govardhane and others v. Special Land Acquisition Officer and another** reported in **(2013) 10 SCC 765** and judgment passed by the Punjab and Haryana High Court in the case of **Patiala Golden Cooperative Transport Society Limited, Patiala Vs. The State Transport Appellate Tribunal, Punjab and others** passed in **LPA No.888/2013 on 05.08.2013.**

12. Heard the learned counsel for the parties.

13. Following dates are important to adjudicate the *lis* in hand:

05.09.2018 – Petitioner applied for grant of permit on Bhind-Gwalior-Bhind route.

14.09.2018 – Case was heard and was closed for orders.

04.10.2018 – Permit was granted.

11.03.2018 – Harishankar Singh filed a revision against the order dated 04.10.2018.

27.01.2021 – Respondent No. 3 applied for grant of permit on Bhind-Gwalior-Bhind route for the same timings as applied by the petitioner.

01.02.2021 – Application filed by the petitioner was rejected.

09.03.2022 – Appeal filed by respondent No. 3 against rejection of his application was allowed and the matter was

remanded back.

06.04.2022 – Petitioner made an application for lifting permit.

21.04.2022 – Harishankar Singh withdrew his revision.

25.04.2022 – Permit to petitioner was granted and RTA, Chambal Division, Morena rejected the application filed by the respondent.

05.08.2022 – Appeal filed by respondent No. 3 against rejection of his application was allowed and the matter was again remanded.

When the petitioner fulfilled the requirements of Rule 75 of the Rules, 1994 for lifting the permit.

14. It is clear that the permit was granted by order dated 04.10.2018, but the petitioner never approached the RTA for lifting the permit till 06.04.2022. In the writ petition, the petitioner has given the reasons for not lifting the permit in paragraph 5.5 which reads as under:-

> 5.5 That, during the pendency of the Revision No.27/2019, the petitioner was deducted mouth cancer by the TATA Memorial Hospital, Mumbai in August, 2021, which was operated on 16.09.2021 at SRJ-CBCC Cancer Hospital at Indore and after successful operation he was advised for long time rest as radiation treatment was going on. Considering the said serious disease and on the request of petition as well as his family members Shri Harishankar Singh Patel was agree to withdraw the Revision No.27/2019 out of court. The petitioner has failed to brought said facts in the notice of the lower tribunal, inadvertently due to his ill health. Copies of the documents of the medical treatment of petitioner are filled here collectively as **Annexure-P-5.**

15. Thus, it is the case of the petitioner that since the petitioner was suffering from mouth cancer and was operated on 16.09.2021 at SRJ-CBCC Cancer Hospital, Indore, therefore, he could not lift the permit and after considering the serious disease and request of the petitioner as well as his family members, Harishankar Singh Patel withdrew his revision on 21.04.2022. Respondent No. 3 has given the details of the temporary permits which were granted to ply Bus bearing registration No. MP14-P-0262. The petitioner has not filed any rejoinder to the said contention as well as has not disputed the details of the temporary permit granted in respect of Bus bearing registration No. MP14-P-0262. Thus, it is clear that the ground raised by the petitioner in paragraph 5.5 of the petition for not lifting the permit is false and he was actively operating the said Bus on different routes by obtaining temporary permits. Furthermore, if Clause 5.5 of the writ petition is read along with the submission that the petitioner had verbally made prayer to the RTA for issuance of permit is considered, then it is clear that the submission made by the counsel for the petitioner that verbal prayer was made by him is false because on one hand, he claimed that he was not well and he is not in a position to operate the Bus whereas on the other hand, he submits that he had made verbal prayer for issuance of permit. Furthermore, counsel for the petitioner could not point out any provision of law which permits the transporter to make a verbal prayer because Rule 75 of the Rules, 1994 provides that the permit can be issued only after entering the registration mark of the vehicle to which it relates. Furthermore, co-ordinate Bench of this Court in the case of **Ram Autar Singh Yadav Vs. The State Transport Appellate Tribunal and others by order dated 19.09.2005**

in W.P. No.3324/2005 has held that a transporter will not keep quite and would not wait for 9 months, therefore, it is clear that the vehicle was not available with the transporter. In the present case also, the petitioner was plying the same Bus on different routes on the strength of temporary permit, therefore, it is clear that Bus was not available for operating on Bhind-Gwalior-Bhind route as mentioned in the permit in question. Thus, it is held that the petitioner had deliberately not lifted the permit as required under Rule 75 of the Rules, 1994 as the Bus was not available.

Whether communication of order under Rule 74(3) of the Rules, 1994 is mandatory?

16. It is next contended by the counsel for the petitioner that Rule 74(3) of the Rules, 1994 provides that the order of grant of permit should be communicated and since this provision is mandatory in nature and in absence of any communication to the petitioner, he was handicapped in applying for lifting of the permit.

17. It is well established principle of law that no word is used by Legislature without assigning any meaning to it. The use of word "communicate" in Rule 74(3) of the Rules, 1994 has to be given some meaning and it cannot be said that the word "communicate" has been used without any purpose. Therefore, it is held that communication of the order under Rule 74(3) of the Rules, 1994 is mandatory.

Whether communication has to be actual one or it can be constructive?

18. Respondent No. 3 has filed copy of some of the order-sheets of the Revision No.27/2019. According to which, the said revision was filed on 28.01.2019 and the petitioner entered his appearance on 11.03.2019. Undisputedly, the petitioner moved an application for lifting the permit

on 06.04.2022. Why the petitioner was waiting for three long years has not been clarified except by submitting that since record of RTA was received by STAT, therefore, he had verbally requested the RTA to grant permission to lift the permit, but the RTA also verbally refused to accept the verbal prayer of the petitioner.

19. This submission made by the counsel for the petitioner that the petitioner had verbally made a prayer for lifting the permit has already been rejected. Furthermore, the petitioner has not claimed in the writ petition or in any document that he had made verbal prayer to the RTA for lifting the permit after 11.03.2019 or immediately prior thereto.

20. Be that whatever it may.

21. The crux of the matter is that the petitioner applied for lifting the permit for the first time on 06.04.2022. It is not out of place to mention here that by the said time, respondent No. 3 had already applied for grant of permit on the same route and for the same timings and the said application was pending before the RTA, Chambal Division, Morena in the light of the order dated 09.03.2022 passed by STAT, Gwalior in Appeal No.48/2021.

22. The only question which requires to be adjudicated is that as to whether the word "communication" mentioned in Rule 74(3) of the Rules, 1994 has to be an actual one or can also be a constructive communication and, accordingly, this Court by order dated 23.09.2022 had formulated following question:-

> The next question which may arise for consideration is that in case if there is no procedure prescribed for communication of an order, then whether the communication has to be an actual one or can also be a constructive communication?

> In case if it can be constructive communication, then what should be the meaning of constructive communication, is also to be adjudicated.
>
> Counsel for the parties pray for and are granted three working days time to address on the above mentioned questions.

23. In reply, it is submitted by the counsel for the petitioner that in the light of the judgment passed by the Supreme Court in the case of **Raja Harish Chandra Raj Singh Vs. Deputy Land Acquisition Officer (supra)**, the communication can be a constructive one. However, he firmly submitted that since requirement of communication is mandatory in nature, therefore, it should have been communicated to the petitioner and it is not expected from the petitioner that he would approach the RTA to find out about the status of his application for grant of permit.

24. Considered the submissions.

25. The Supreme Court in the case of **Rajasthan Housing Board (supra)** has held as under:-

> **16.** In the instant case it is apparent that the Housing Society had preferred objections and was aware of the land acquisition process and determination of compensation and has filed objections which stood rejected on 4-9-1982. Thus, the constructive knowledge of the award is fairly attributable to it when it was so passed. Constructive notice in legal fiction signifies that the individual person should know as a reasonable person would have. Even if they have no actual knowledge of it. Constructive notice means a man ought to have known a fact. A person is said to have notice of a fact when he actually knows a fact but for wilful abstention from inquiry or search which he ought to have made, or gross negligence he would have known it. Constructive notice is a notice inferred by law, as distinguished from actual or formal notice; that which is

held by law to amount to notice. The concept of constructive notice has been upheld by this Court in *Harish Chandra* [AIR 1961 SC 1500] .

The Supreme Court in the case of **Raja Harish Chandra Raj Singh (supra)** has held as under:-

> **11.** A similar question arose before the Madras High Court in *Annamalai Chetti* v. *Col. J.G. Closte* [(1883) ILR 6 Mad 189] . Section 25 of the Madras Boundary Act 28 of 1860 limited the time within which a suit may be brought to set aside the decision of the settlement officer to two months from the date of the award, and so the question arose as to when the time would begin to run. The High Court held that the time can begin to run only from the date on which the decision is communicated to the parties. "If there was any decision at all in the sense of the Act", says the judgment, "it could not date earlier than the date of the communication of it to the parties; otherwise they might be barred of their right of appeal without any knowledge of the decision having been passed". Adopting the same principle a similar construction has been placed by the Madras High Court in *K.V.E. Swaminathan alias Chidambaram Pillai* v. *Letchmanan Chettiar* [(1930) ILR 53 Mad 491] on the limitation provisions contained in Sections 73(1) and 77(1) of the Indian Registration Act 16 of 1908. It was held that in a case where an order was not passed in the presence of the parties or after notice to them of the date when the order would be passed the expression "within thirty days after the making of the order" used in the said sections means within thirty days after the date on which the communication of the order reached the parties affected by it. These decisions show that where the rights of a person are affected by any order and limitation is prescribed for the enforcement of the remedy by the person aggrieved against the said order by reference to the making of the said order, the making of the order must mean either actual or constructive communication

> of the said order to the party concerned. Therefore, we are satisfied that the High Court of Allahabad was in error in coming to the conclusion that the application made by the appellant in the present proceedings was barred under the proviso to Section 18 of the Act.

26. It is fairly conceded by the counsel for the parties that neither under the Motor Vehicles Act nor under the Rules, any mode of communication has been provided, therefore, the word "communication" has to be interpreted as actual communication as well as constructive communication also.

Whether the petitioner was having constructive knowledge of order dated 04.10.2018 or not ?

27. Now the next question for consideration is that "what should be the meaning of constructive communication?"

28. In the present case, the petitioner had applied for grant of permit to ply the Bus No.MP14-P-0262 on Bhind-Gwalior-Bhind route. It is true that there is nothing on record to show that the order dated 4/10/2018 was ever sent to the petitioner by any post whether registered or ordinary, but is also not the case of the petitioner that he had tried to verify from the RTA, but he was not apprised of the status of said application. The petitioner was already plying the said Bus on different routes on the strength of temporary permits. Thus, it is clear that the petitioner was regularly appearing before the RTA for issuance of temporary permit for plying the same bus. Under these circumstances, neither it can be presumed nor it can be accepted that the petitioner would not have enquired about the status of his application for grant of permit on Bhind-Gwalior-Bhind route. Even if the petitioner was not made known about the order dated 4/10/2018 by actually supplying the copy of the same, but

as held by the Supreme Court in the case of **Rajasthan Housing Board (supra),** a person can be said to have constructive knowledge of the fact when he actually knows a fact but for willful abstention from inquiry or search which he ought to have made, or gross negligence he would have known it. Constructive notice is a notice inferred by law and, therefore, when the petitioner was regularly appearing in the office of RTA for obtaining temporary permits for the same Bus, then it cannot be accepted that he never made any enquiry about the outcome of his application. Thus, it is clear that the petitioner had constructive knowledge of the order dated 4/10/2018. Even otherwise, the petitioner had appeared in Revision No.27/2019 on 11/3/2019 and even then he did not file any application seeking permission to lift the permit before the RTA.

29. The submission made by the counsel for the petitioner that a verbal prayer was made in this regard and it was turned down verbally by the RTA is nothing, but an afterthought having no foundation to stand. After coming to know about passing of order dated 4/10/2018, the petitioner kept mum and applied for lifting of permit for the first time on 6/4/2022 and that too, when respondent no.3 had already applied for grant of permit on the same route and for the same timings. Although the communication of order granting permit is mandatory, but since this Court has already come to a conclusion that the petitioner was having a constructive knowledge of order dated 4/10/2018 and even otherwise got actual knowledge of order dated 4/10/2018 when he received the notice of Revision No.27/2019 filed by Harishankar Singh, this Court is of the considered opinion that the petitioner deliberately did not lift the permit and was plying the Bus on different routes by obtaining temporary

permits, including interstate routes.

Whether Clause 23 of order dated 04.10.2018 has inbuilt consequences of automatic revocation or not?

30. It is next contended by the counsel for the petitioner that since there is nothing on record to show that the life of the permit was limited, therefore, it cannot be said that merely because the petitioner did not lift the permit in spite of communication, therefore, the said permit would come to an end even prior to expiry of its period of validity.

31. Considered the submissions made by the counsel for the petitioner.

32. In Clause 23 of the order dated 4/10/2018, Annexure P/2, it is specifically mentioned that it would be obligatory on the part of the petitioner to initiate operation of the bus within a period of 60 days from the date of receipt of intimation. Clause 23 of the order reads as under:-

> **23**. उक्त स्वीकृत अनुज्ञा पत्र सूचना प्राप्ति के 60 दिवस की अवधि में आवेदन पत्र में प्रस्तावित वाहन से संचालन प्रारम्भ किया जाना आवश्यक होगा।

33. It is submitted by the counsel for the petitioner that the powers of this Court under Article 226 of the Constitution of India are different from that of the powers under Article 227 of the Constitution of India. This Court in exercise of its power under Article 227 of the Constitution of India is to examine as to whether any illegality has been committed by the Tribunal/Court or not. Clause 23 of the order dated 04.10.2018 was inserted because of the provision of Rule 75 of the Rules, 1994 which reads as under:-

> **75. Entry of registration mark on permit.** - No permit shall be issued until the registration mark of the vehicle to which it relates, has been entered therein and in the event of the applicant failing to produce the certificate of registration within the specified period, the

Transport Authority may revoke its sanction regarding the grant of permit.

34. Rule 75 of the Rules, 1994 provides that no permit shall be issued until the registration of marks of vehicles to which it relates has been entered therein and in the event of the applicant failing to produce the certificate of registration within the specified time, the transport authority may revoke its sanction regarding the grant of permit. It is submitted that the power to revoke the order granting permit can be exercised only under Rule 75 of the Rules, 1994. Thus, before exercising the power to revoke the permit, the authority is under obligation to give an opportunity of hearing to the beneficiary and in the present case, no such proceedings were followed and Clause 23 of the order dated 04.10.2018 does not contain the condition of automatic revocation, therefore, it cannot be presumed that non-operation of the Bus within a period of 60 days from the date of receipt of intimation would result in automatic revocation of order dated 04.10.2018.

35. By relying on the judgment passed by this Court in the case of **Kameshwar Sharma and another Vs. State of M.P. and others** reported in **2019 (I) MPLJ 51**, it is submitted by the counsel for the petitioner that whether a provision is mandatory or directory in nature can be ascertained only after considering the reasons and objects of the statute. If Clause 23 of the order dated 04.10.2018 is read conjointly with Section 86 of the Motor Vehicle Act and Rule 75 of the Rules, 1994 then it is clear that the only purpose is that the power to revoke can be exercised by the authority in case the applicant fails to produce the certificate of registration within specified period. Thus, the basic purpose of Rule 75 of the Rules, 1994 and Section 86 of the Motor Vehicles Act

is to ensure that the Buses are plied without any unnecessary delay and, therefore, in absence of any consequence of automatic revocation in Clause 23 of the order dated 04.10.2018, it cannot be said that such consequence was inbuilt in the said order.

36. Per contra, it is submitted by the counsel for the respondent No. 3 that it is well established principle of law that for ascertaining as to whether a particular provision is mandatory or directory, the reasons and objects of the said provision are one of the relevant factors. In the present case, the provision of Motor Vehicles Act as well as the Rules, 1994 have been made in order to make the travelling of the passengers comfortable one as well as to provide the public conveyance at the scheduled time. It is submitted that Chapter 13 of the Motor Vehicles Act deals with the punishment including driving at excessive speed etc., driving dangerously, driving by a drunken person or by a person under the influence of drugs, driving when mentally and physically unfit to drive, racing and trials of speed, using vehicle in an unsafe condition, using vehicle without registration, using vehicle without permit, punishment of agents and canvassers without proper authority, driving the vehicle exceeding permissible weight, driving in uninsured vehicle, taking the vehicle without authority, unauthorized interference with the vehicle etc. which shows that the transporter has to operate the vehicle in accordance with law. The different provision of the Motor Vehicles Act clearly shows that it has been provided for the convenience and safe transportation of the passengers and also for simplification of procedure and policy liberalization for private sector operation in the road transport. The purpose of this Act is also to liberalize schemes for grant of stage

carriage permits on non-nationalized routes, all India tourist permits and also national permits for goods carriage. It is submitted that thus the transportation of vehicle is subject to the restrictions made in the Act. Under these circumstances, every provision which is in consonance with the reason and object of the Act should be construed as mandatory. It is further submitted that the basic purpose of Rule 75 of the Rules, 1994 is that no one should be permitted to sit idle after obtaining the permit because such act of the transporter would not be in the interest of general public who will be deprived of public conveyance. Thus, the rights of the permit holder to carry on his business are subject to certain restrictions which are reasonable and in consonance with the reasons and objects of the Act and, therefore, Rule 75 of the Rules, 1994 gives authority to the RTA to revoke the permit if it is not utilized within the specified period. To buttress his contentions, counsel for the respondent No. 3 has relied upon the judgment passed by the Supreme Court in the case of **R. Rudraiah and another Vs. State of Karnataka and others** reported in **AIR 1998 SC 1070, Owners and Parties interested in M.V. "Vali Pero" Vs. Fernandeo Lopez and others** reported in **AIR 1989 SC 2206, Mannalal Khetan etc. etc. Vs. Kedar Nath Khetan and others etc.** reported in **AIR 1977 SC 536**, **M. Pentiah and others Vs. Muddala Veeramallappa and others** reported in **AIR 1961 SC 1107.**

37. Thus, it is submitted that although the Clause 23 of the order dated 04.10.2018 had not specifically provided for consequences of non-operation of Bus within the period of 60 days, but since the clause has been inserted in the light of power under Rule 75 of the Rules, 1994, therefore, it has to be presumed that even in absence of any negative

terminology with regard to automatic revocation of order dated 04.10.2018, the said clause has to be treated as mandatory with inbuilt consequence to follow on account of the non-compliance of the same.

38. Heard the learned counsel for the parties.

39. The Supreme Court in the case of **R. Rudraiah (supra)- AIR 1998 SC 1070** has held as under:

> **18.** It is true there is a principle of interpretation of statutes that the plain or grammatical construction which leads to injustice or absurdity is to be avoided (see Venkatarama Iyer, J. in *Tirath Singh* v. *Bachittar Singh* [AIR 1955 SC 830 : (1955) 2 SCR 457] (AIR at 855). But that principle can be applied only if "the language admits of an interpretation which would avoid it". *Shamrao V. Parulekar* v. *District Magistrate* [AIR 1952 SC 324 : 54 Bom LR 877] (AIR at 327). In our view Section 48-A, as amended, has fixed a specific date for the making of an application by a simple rule of arithmetic, and there is therefore no scope for implying any "ambiguity" at all. Further "the fixation of periods of limitation must always be to some extent arbitrary, and may frequently result in hardship. But in construing such provisions, equitable considerations are out of place, and the strict grammatical meaning of the words is the only safe guide".

The Supreme Court in the case of **Fernandeo Lopez (supra)** has held as under:

> **18.** Rules of procedure are not by themselves an end but the means to achieve the ends of justice. Rules of procedure are tools forged to achieve justice and are not hurdles to obstruct the pathway to justice. Construction of a rule of procedure which promotes justice and prevents its miscarriage by enabling the court to do justice in myriad situations, all of which cannot be envisaged, acting within the limits of the

permissible construction, must be preferred to that which is rigid and negatives the cause of justice. The reason is obvious. Procedure is meant to subserve and not rule the cause of justice. Where the outcome and fairness of the procedure adopted is not doubted and the essentials of the prescribed procedure have been followed, there is no reason to discard the result simply because certain details which have not prejudicially affected the result have been inadvertently omitted in a particular case. In our view, this appears to be the pragmatic approach which needs to be adopted while construing a purely procedural provision. Otherwise, rules of procedure will become the mistress instead of remaining the handmaid of justice, contrary to the role attributed to it in our legal system.

20. The consequence of failure to comply with any requirement of Rule 4 *ibid* is not provided by the statute itself. Accordingly, the consequence has to be determined with reference to the nature of the provision, the purpose of its enactment and the effect of the non-compliance. Rule 4 uses the word "shall" even while requiring the signature of the witness as it uses the word "shall" in respect of the other requirements of the rule. Ordinarily, the word "shall" used at several places in Rule 4 must be given the same meaning at all places. However, it is also settled that this is not an invariable rule and even though the word "shall" is ordinarily mandatory but in the context or if the intention is otherwise it may be construed to be merely directory. In short, the construction ultimately depends on the provision itself keeping in view the intendment of the enactment and the context in which the word "shall" has been used.

21. It would suffice, to refer only to the decision in *Ganesh Prasad Sah Kesari* v. *Lakshmi Narayan Gupta* [(1985) 3 SCC 53 : (1985) 3 SCR 825] . The word "shall" was used therein in connection with the court's power to strike off the defence against ejectment in a suit for eviction of tenant in case of

default in payment of rent. This Court construed the word "shall" in that context as directory and not mandatory since such a construction would advance the purpose of enactment and prevent miscarriage of justice. In taking this view, this Court was impressed by the fact that the default attracting the drastic consequence of striking out defence may be only formal or technical and unless the provision was treated as directory, it would render the court powerless even where striking out the defence may result in miscarriage of justice. We may refer to a passage from Crawford on *Statutory Construction* [1940 Edn., Article 261, p. 516] which was quoted with approval in *Govindlal Chagganlal Patel* v. *Agricultural Produce Market Committee, Godhra* [(1975) 2 SCC 482 : AIR 1976 SC 263 : (1976) 1 SCR 451 : 1975 Cri LJ 1993] and relied on in this decision. The quotation is as under:

> "The question as to whether a statute is mandatory or directory depends upon the intent of the legislature and not upon the language in which the intent is clothed. The meaning and intention of the legislature must govern, and these are to be ascertained, not only from the phraseology of the provision, but also while considering its nature, its design, and the consequences which would follow from construing it the one way or the other."

The Supreme Court in the case of **Mannalal Khetan (Supra)** has held as under:

> **15.** The respondents preferred an appeal. The Division Bench of the High Court set aside the order passed by the Company Judge and dismissed the applications of the appellant. The Division Bench held that the provisions contained in Section 108 of the Act were directory and not mandatory. The Division Bench also held that the provisions of Section 64 of the Code of Civil Procedure and Order 21 Rule 46 prevail over the prohibitory order contained in Form 18 in Appendix E of Schedule I of the Code. The Division Bench held that the

appointment of the Receiver did not divest a party of his right to property and the mere fact that shares were handed over to the Receiver with blank instruments of transfer did not make any difference.

16. The provision contained in Section 108 of the Act states that

"a company shall not register a transfer of shares . ….... unless a proper instrument of transfer duly stamped and executed by or on behalf of the transferor and by or on behalf of the transferee …..... has been delivered to the company along with the certificate relating to the shares or debentures …..... or if no such certificate is in existence along with the letter of allotment of the shares. There are two provisos to Section 108 of the Act. We are not concerned with the first proviso in these appeals The second proviso states that nothing in this section shall prejudice any power of the company to register as shareholder or debenture holder any person to whom the right to any shares in, or debentures of, the company has been transmitted by operation of law. The words "shall not register" are mandatory in character. The mandatory character is strengthened by the negative form of the language. The prohibition against transfer without complying with the provisions of the Act is emphasised by the negative language. Negative language is worded to emphasise the insistence of compliance with the provisions of the Act. (See *State of Bihar* v. *Maharajadhiraja Sir Kameshwar Singh of Darbhanga* [AIR 1952 SC 252 : 1952 SCR 889, 988-989] ; *K Pentiah* v. *Muddala Veeramallappa* [AIR 1961 SC 1107 : (1961) 2 SCR 295, 308] and unreported decision dated April 28. 1976 in Criminal Appeal No. 279 of 1975 and *Additional District Magistrate, Jabalpur* v. *Shivakant Shukla* [(1976) 2 SCC 521] .) Negative words are clearly prohibitory and are ordinarily used as a legislative device to make a statutory provision imperative.

17. In *Raza Buland Sugar Co. Ltd.* v. *Municipal Board, Rampur* [AIR 1965 SC 895 : (1965) 1 SCR 970]

this Court referred to various tests for finding out when a provision is mandatory or directory. The purpose for which the provision has been made, its nature, the intention of the legislature in making the provision, the general inconvenience or injustice which may result to the person from reading the provision one way or the other, the relation of the particular provision to other provisions dealing with the same subject and the language of the provision are all to be considered. Prohibition and negative words can rarely be directory. It has been aptly stated that there is one way to obey the command and that is completely to refrain from doing the forbidden act. Therefore, negative, prohibitory and exclusive words are indicative of the legislative intent when the statute is mandatory. (See *Maxwell on Interpretation of Statutes*, 11th Edn., p. 362 seq.; Crawford: *Statutory Construction, Interpretation of Laws*, p. 523 and *Seth Bikhrai Jaipuria* v. *Union of India* [AIR 1962 SC 113 : (1962) 2 SCR 880, 893-894] .)

18. The High Court said that the provisions contained in Section 108 of the Act are directory because non-compliance with Section 108 of the Act is not declared an offence. The reason given by the High Court is that when the law does not prescribe the consequences or does not lay down penalty for non-compliance with the provision contained in Section 108 of the Act the provision is to be considered as directory. The High Court failed to consider the provision contained in Section 629(*a*) of the Act. Section 629(*a*) of the Act prescribes the penalty where no specific penalty is provided elsewhere in the Act. It is a question of construction in each case whether the legislature intended to prohibit the doing of the act altogether, or merely to make the person who did it liable to pay the penalty.

The Supreme Court in the case of **M. Pentiah (supra)** has held as under:

6. Before we consider this argument in some

detail, it will be convenient at this stage to notice some of the well established rules of Construction which would help us to steer clear of the complications created by the Act. *Maxwell on the Interpretation of Statutes*, 10th Edn., says at p. 7 thus:

> "… if the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation, we should avoid a construction which would reduce the legislation to futility and should rather accept the bolder construction based on the view that Parliament would legislate only for the purpose of bringing about an effective result".

It is said in *Craies on Statute Law*, 5th Edn., at p. 82—

> "Manifest absurdity or futility, palpable injustice, or absurd inconvenience or anomaly to be avoided."

Lord Davey in *Canada Sugar Refining Co.* v. *R.* [(1898) AC 735] provides another useful guide of correct perspective to such a problem in the following words:

> "Every clause of a statute should be construed with reference to the context and the other clauses of the Act, so as, so far as possible, to make a consistent enactment of the whole statute or series of statutes relating to the subject-matter."

The Division Bench of this Court in the case of **Kameshwar Sharma** (supra) has held as under:-

> **22-** In Banwari Lal Agarwalla versus State of Bihar, reported in AIR 1961 SC 849, Constitution Bench of Supreme Court held that no general rule can be laid down for deciding whether any particular provision in a statute is mandatory, meaning thereby

that nonobservance thereof involves the consequence of invalidity or only directory i.e., a direction the non-observance of which does not entail the consequence of invalidity, whatever other consequences may occur. But, in each case, the Court has to decide the legislative intent. The Court have to consider not on the actual words used but the scheme of the statute, the intended benefit to public or what is enjoined by the provisions and the material danger to the public by the contravention of the same.

23- In State of Mysore versus V.K. Kangan, reported in AIR 1975 SC 2190, the Supreme Court held that in determining the question whether a provision is mandatory or directory, one must look into the subject-matter and the relation of that provision to the general object intended to be secured. It was held that, no doubt, all laws are mandatory in the sense they impose the duty to obey on those who come within its purview but it does not follow that every departure from it shall taint the proceedings with a fatal blemish. The determination of the question whether a provision is mandatory or directory would, in the ultimate analysis, depend upon the intent of the law-maker. The said intention has to be gathered not only from the phraseology of the provision but also by considering its nature, its design and the consequences which would follow from construing it in one way or the other.

24- In Topline Shoes Limited versus Corporation Bank, reported in (2002) 6 SCC 33, the Supreme Court negatived the argument raised that the State Commission constituted under the Consumer Protection Act, 1986, has no power to accept a reply filed beyond a total period of 45 days. It was held that such provision is not mandatory in nature. No penal consequences are prescribed and the period of extension of time “not exceeding 15 days”, does not prescribe any kind of period of limitation. The provision is directory in nature. The provision is more by way of procedure to achieve the object of speedy disposal of such disputes.

It is an expression or desirability in strong terms. But it falls short or creating any kind of substantive right in favour of the complainant by reason of which the respondent may be debarred from placing his version in defence in any circumstances whatsoever.

25- In P.T. Rajan versus T.P.M. Sahir and others, reported in (2003) 8 SCC 498, the Supreme Court held that where a statutory functionary is asked to perform a statutory duty within the time prescribed therefore, the same would be directory and not mandatory. It was held to the following effect:-

> "45. A statute as is well known must be read in the text and context thereof. Whether a statute is directory or mandatory would not be dependent on the user of the words "shall" and "may". Such a question must be posed and answered having regard to the purpose and object it seeks to achieve.
>
> 46. What is mandatory is the requirement of sub-section (3) of Section 23 of the 1950 Act and not the ministerial action of actual publication of Form 16.
>
> 47. The construction of a statute will depend on the purport and object for which the same had been used. In the instant case the 1960 Rules do not fix any time for publication of the electoral rolls. On the other hand, Section 23(3) of the 1950 Act categorically mandates that direction can be issued for revision in the electoral roll by way of amendment in inclusion and deletion from the electoral roll till the date specified for filing nomination. The electoral roll as revised by reason of such directions can, therefore, be amended only thereafter. On the basis of direction issued by the competent authority in relation to an application filed for inclusion of a voter's name, a nomination can be filed. The person concerned, therefore, would not be inconvenienced or in any way be prejudiced only because the revised electoral roll in Form 16 is published a few hours later. The result

of filing of such nomination would become known to the parties concerned also after 3.00 pm.

48. Furthermore, even if the statute specifies a time for publication of the electoral roll, the same by itself could not have been held to be mandatory. Such a provision would be directory in nature. It is a well-settled principle of law that where a statutory functionary is asked to perform a statutory duty within the time prescribed therefore, the same would be directory and not mandatory. (See *Shiveshwar Prasad Sinha versus District Magistrate of Monghyr, AIR 1966 Patna 144; Namita Chowdhary versus State of WB (1999) 2 Cal LJ 21; and Garbari Union Coop. Agricultural Credit Society Ltd versus Swapan Kumar Jana (1997) 1 CHN 189*).

49. Furthermore, a provision in a statute which is procedural in nature although employs the word "shall" may not be held to be mandatory if thereby no prejudice is caused. (See *Raza Buland Sugar Co. Ltd versus Municipal Board, Rampur, AIR 1965 SC 895; State Bank of Patiala versus S.K. Sharma, (1996) 3 SCC 364; Venkataswamappa versus Special Dy. Commr (Revenue), (1997)9 SCC 128; and Rai Vimal Krishna versus State of Bihar, (2003) 6 SCC 401*)."

26- In a judgment reported as Amardeep Singh Vs. Harveen Kaur, (2017) 8 SCC 746, the Supreme Court held that the Court is required to consider the nature and design of the statute; the consequences which would follow from construing it the one way or the other; the impact of other provisions whereby necessity of complying with the provisions in question is avoided; the circumstances, namely, that the statute provides for contingency of the non-compliance with the provisions; the fact that the non-compliance with the provision is or is not visited with some penalty; the serious or the trivial consequences, that flow therefrom; and the factors which are required to be determined

whether the provision is mandatory or directory.

> "18. In determining the question whether provision is mandatory or directory, language alone is not always decisive. The court has to have the regard to the context, the subject-matter and the object of the provision. This principle, as formulated in Justice G.P. Singh's *Principles of Statutory Interpretation* (9th Edn., 2004), has been cited with approval in *Kailash* v. *Nanhku* [(2005) 4 SCC 480] as follows: (SCC pp. 496-97, para 34)
>
> > "*34*. … 'The study of numerous cases on this topic does not lead to formulation of any universal rule except this that language alone most often is not decisive, and regard must be had to the context, subject-matter and object of the statutory provision in question, in determining whether the same is mandatory or directory. In an oft-quoted passage Lord Campbell said: "No universal rule can be laid down as to whether mandatory enactments shall be considered directory only or obligatory with an implied nullification for disobedience. It is the duty of courts of justice to try to get at the real intention of the legislature by carefully attending to the whole scope of the statute to be considered.
> >
> > > "'For ascertaining the real intention of the legislature', points out Subbarao, J. 'the court may consider inter alia, the nature and design of the statute, and the consequences which would follow from construing it the one way or the other; the impact of other provisions whereby the necessity of complying with the provisions in question is avoided; the circumstances, namely, that the statute provides for a contingency of the noncompliance with the provisions; the fact that the noncompliance with the provisions is or is not visited by some penalty; the serious or the trivial consequences, that flow therefrom; and above all, whether the

> object of the legislation will be defeated or furthered'. If object of the enactment will be defeated by holding the same directory, it will be construed as mandatory, whereas if by holding it mandatory serious general inconvenience will be created to innocent persons without very much furthering the object of enactment, the same will be construed as directory." "

27- In Administrator, Municipal Committee Charkhi Dadri versus Ramji Lal Bagla, reported in AIR 1995 SC 2329, Supreme Court ruled that absence of provision for consequence in case of noncompliance with the requirements prescribed would indicate directory nature despite use of word "shall".

28- In the case of Rao Mahmood Ahmad Khan through Their LR Vs. Ranbir Singh and others, reported as 1995 Supp (4) SCC 275, the Court was examining Rules 285-D to 285-G, of the U.P. Zamindari Abolition and Land Reforms Rules, 1952 (for short the '1952 Rules'). Such Rules contemplate that the purchaser has to deposit 25% of the amount of bid and in default of such deposit; the property shall be resold forthwith. It was under these circumstances that Rule 285 was said to be mandatory.

> "8. A perusal of the language employed in Rule 285-D would go to show that it requires the person declared to be purchaser to deposit immediately 25 per cent of the amount of his bid, and in default of such deposit the property shall be resold forthwith and such person who failed to deposit 25 per cent of the bid amount shall be liable for the expenses incurred in the first sale and the deficiency of price, if any, which may occur on the resale would be recovered from such defaulting purchaser as arrears of land revenue. The use of the word 'immediately' in depositing 25 per cent of the bid amount and the expression resale of the property 'forthwith' are equally meaningful and

significant. Strictly speaking the requirement of deposit of 25 per cent immediately, by the person declared to be the purchaser may not mean the deposit on fall of hammer within twinkle of an eye and without affording the purchaser even the reasonable time to enable him to make the deposit. According to us the word 'immediately' connotes and implies that the deposit should be made without undue delay and within such convenient time as is reasonably requisite for doing the thing same day with all convenient speed excluding the possibility of rendering the other associated corresponding act and performance of duty nugatory. Here the other associated corresponding act and duty cast upon the officer/authority conducting the sale as envisaged by Rule 285-D is to put up the property for resale 'forthwith' on the failure of the declared purchaser to deposit 25 per cent of the bid amount. The word 'immediately' therefore, connotes proximity in time to comply and proximity in taking steps to resell on failure to comply with the requirement of deposit as first condition that is to take place within relatively short interval of time and without any other intervening recurrence. But it has to be noted that the meaning of the word immediately has to be determined by the context in which it has been used and the purpose for which the statute using the word was enacted. That being so it goes without saying that in the instant case the rule casts an obligation on the purchaser to deposit 25 per cent of the bid amount immediately and if he fails to do so the property shall be resold forthwith.

9. Further Rule 285-D provides resale of the property forthwith on the failure of the purchaser to deposit 25 per cent of the bid amount. The meaning of the word 'forthwith' is synonymous with the word 'immediately' which means with all reasonable quickness and within a reasonably prompt time. It, therefore, necessarily follows that

> the intention of the legislature is that as soon as it becomes known that the purchaser has failed to deposit 25 per cent immediately after he is declared as purchaser, the property shall be put to resale forthwith without any loss of time or postponement of the date of resale. The provision has been made mandatory because if the property is not resold forthwith and on the same day but later on after a day or two, the sufficient number of purchasers may not be forthcoming and the property may not fetch adequate and fair price to the prejudice of the judgment-debtor. There is yet another reason for making this provision mandatory and it is this that if on the failure of the purchaser to deposit 25 per cent of the bid amount immediately and on the day the person is declared to be purchaser then the sale of the property will have to be postponed to some other date and according to the provisions contained in Rule 25-G reproduced in para 6 above, no sale after the postponement under Rule 285-D in default of payment of the purchase money shall be made until a fresh proclamation has been issued as prescribed for the original sale. It is to avoid this situation and the delay in the sale that a provision under Rule 285-D has been made mandatory and on the failure of compliance of the same the sale becomes a nullity."

40. If Clause 23 of the order dated 04.10.2018 is considered in the light of the law laid down by the Supreme Court in the above-mentioned judgments, then it is clear that while interpreting the provisions of law or order, the reasons and objects of the said provision are to be kept in mind. In the present case, a permit is granted for a particular time as well as for a particular route and it is for the benefit of the passengers so that they can get a public conveyance at a particular time for a particular route. Grant of permit cannot be said to be an action just for the

commercial use of vehicle, thus, it cannot be said to be for benefit of the transporter, but in fact, it is for the benefit of the passengers. The basic purpose for allotting the time is to avoid rash and negligent driving, over speeding, uncanalize use of vehicle without there being any time table and all these aspects have been provided for the benefit of the passengers and not for the benefit of the transporter. The transporter cannot ply his Bus on any route and at any time without there being any permit, therefore, the permit is given/issued to regulate the plying of Bus on a particular route at a particular time. By no stretch of imagination, it can be said that the permit is granted for the benefit of transporter, but in fact, it is for the benefit of the passengers.

41. If the submission made by the counsel for the petitioner to the effect that Clause 23 of the order dated 04.10.2018 should be construed as directory in nature is considered, then this Court is of the considered opinion that by not giving meaningful interpretation to the said provision, the basic purpose of issuing permit would be frustrated. As already held, the permit is granted to regulate the plying of Bus so that the life of the passengers can be made comfortable and safe. If Clause 23 is considered in a directory manner, then the consequences of such interpretation would be that "the permit holder shall be required to operate the Bus within a period of 60 days from the date of intimation, otherwise he may start the operation at his sweet-will". If such an interpretation is given to Clause 23 as suggested by the counsel for the petitioner, then it would lead to an absurdity resulting in frustration of basic purpose of the provision of the Motor Vehicles Act as well as the Rules, 1994, therefore, it is held that although Clause 23 of the order

dated 04.10.2018 does not provide for consequences of non-initiation of operation of Bus within 60 days of the intimation of grant of permit, but it can be safely held that the consequences are inbuilt in the light of the provisions of Rule 75 of the Rules, 1994.

42. Now the next question for consideration is "as to whether this Court can import the consequence of revocation of permit order as provided under Rule 73 of the Rules, 1994 in Clause 23 of order dated 4/10/2018 or not?"

43. The Supreme Court in the case of **Mahadeolal Kanodia Vs. The Administrator General of West Bengal** reported in reported in **AIR 1960 SC 936** has held as under:-

> **8.** The principles that have to be applied for interpretation of statutory provisions of this nature are well-established. The first of these is that statutory provisions creating substantive rights or taking away substantive rights are ordinarily prospective; they are retrospective only if by express words or by necessary implication the legislature has made them retrospective; and the retrospective operation will be limited only to the extent to which it has been so made by express words, or necessary implication. The second rule is that the intention of the legislature has always to be gathered from the words used by it, giving to the words their plain, normal, grammatical meaning. The third rule is that if in any legislation, the general object of which is to benefit a particular class of persons, any provision is ambiguous so that it is capable of two meanings, one which would preserve the benefit and another which would take it away, the meaning which preserves it should be adopted. The fourth rule is that if the strict grammatical interpretation gives rise to an absurdity or inconsistency such interpretation should be discarded and an interpretation which will give effect to the purpose the Legislature may reasonably be

> considered to have had will be put on the words, if necessary even by modification of the language used.

44. Therefore, this Court can import the consequence of non-compliance as provided in Rule 75 of the Rules, 1994 into Clause 23 of order dated 4/10/2018.

45. So far as the contention of the counsel for the petitioner that the order of revocation cannot be passed without giving an opportunity of hearing to the permit holder is concerned, it has some substance in it, but at the same time, this Court cannot lose sight of the fact that the order cannot be quashed merely on the ground of non-grant of opportunity of hearing. In order to take advantage of violation of natural justice, the person concerned has to make out a case that non-grant of opportunity of hearing has caused prejudice to him. The Supreme Court in the case of **Nirma Industries Limited and another Vs. Securities and Exchange Board of India** reported in **(2013) 8 SCC 20** has held as under:

> **30.** In *B. Karunakar* [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] , having defined the meaning of "civil consequences", this Court reiterated the principle that the Court/Tribunal should not mechanically set aside the order of punishment on the ground that the report was not furnished to the employee. It is only if the Court or Tribunal finds that the furnishing of the report would have made a difference to the result in the case that it should set aside the order of punishment. In other words, the Court reiterated that the person challenging the order on the basis that it is causing civil consequences would have to prove the prejudice that has been caused by the non-grant of opportunity of hearing.…....
>
> **35.** Mr Venugopal has further pointed out that apart from the appellants, even the merchant bankers did not make a request for a personal hearing. He

submitted that grant of an opportunity for a personal hearing cannot be insisted upon in all circumstances. In support of this submission, he relied on the judgment of this Court in *Union of India* v. *Jesus Sales Corpn.* [(1996) 4 SCC 69] The submission cannot be brushed aside in view of the observations made by this Court in the aforesaid judgment, which are as under: (SCC pp. 74-75, para 5)

> "*5.* The High Court has primarily considered the question as to whether denying an opportunity to the appellant to be heard before his prayer to dispense with the deposit of the penalty is rejected, violates and contravenes the principles of natural justice. In that connection, several judgments of this Court have been referred to. It need not be pointed out that under different situations and conditions the requirement of compliance with the principle of natural justice vary. The courts cannot insist that under all circumstances and under different statutory provisions personal hearings have to be afforded to the persons concerned. If this principle of affording personal hearing is extended whenever statutory authorities are vested with the power to exercise discretion in connection with statutory appeals, it shall lead to chaotic conditions. Many statutory appeals and applications are disposed of by the competent authorities who have been vested with powers to dispose of the same. Such authorities which shall be deemed to be quasi-judicial authorities are expected to apply their judicial mind over the grievances made by the appellants or applicants concerned, but it cannot be held that before dismissing such appeals or applications in all events the quasi-judicial authorities must hear the appellants or the applicants, as the case may be. When principles of natural justice require an opportunity to be heard before an adverse order is passed on any appeal or application, it does not in

> all circumstances mean a personal hearing. The requirement is complied with by affording an opportunity to the person concerned to present his case before such quasi-judicial authority who is expected to apply his judicial mind to the issues involved. Of course, if in his own discretion if he requires the appellant or the applicant to be heard because of special facts and circumstances of the case, then certainly it is always open to such authority to decide the appeal or the application only after affording a personal hearing. But any order passed after taking into consideration the points raised in the appeal or the application shall not be held to be invalid merely on the ground that no personal hearing had been afforded."

46. The Supreme Court in the case of **Chairman, State Bank of India and another Vs. M.J. James** reported in **(2022) 2 SCC 301** has held as under:-

> **31.** In *State of U.P.* v. *Sudhir Kumar Singh* [*State of U.P.* v. *Sudhir Kumar Singh*, (2021) 19 SCC 706 : 2020 SCC OnLine SC 847] referring to the aforesaid cases and several other decisions of this Court, the law was crystallised as under : (SCC para 42)
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> "*42*. An analysis of the aforesaid judgments thus reveals:
>
> *42.1*. Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.
>
> *42.2*. Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also

in public interest.

42.3. No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

42.4. In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

42.5. The "prejudice" exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice."

The Supreme Court in the case of **Dharampal Satyapal Limited Vs. Deputy Commissioner of Central Excise, Gauhati and others** reported in **(2015) 8 SCC 519** has held as under:-

20. Natural justice is an expression of English Common Law. Natural justice is not a single theory—it is a family of views. In one sense administering justice itself is treated as natural virtue and, therefore, a part of natural justice. It is also called "*naturalist***"** approach to the phrase "*natural justice***"** and is related to "*moral naturalism***"**. Moral naturalism captures the essence of commonsense morality—that good and evil, right and wrong, are the real features of the natural world that

human reason can comprehend. In this sense, it may comprehend virtue ethics and virtue jurisprudence in relation to justice as all these are attributes of natural justice. We are not addressing ourselves with this connotation of natural justice here.

21. In Common Law, the concept and doctrine of natural justice, particularly which is made applicable in the decision-making by judicial and quasi-judicial bodies, has assumed a different connotation. It is developed with this fundamental in mind that those whose duty is to decide, must act judicially. They must deal with the question referred both without bias and they must give (*sic* an opportunity) to each of the parties to adequately present the case made. It is perceived that the practice of aforesaid attributes in mind only would lead to doing justice. Since these attributes are treated as natural or fundamental, it is known as "*natural justice***"**. The principles of natural justice developed over a period of time and which is still in vogue and valid even today are: (*i*) rule against bias i.e. *nemo debet esse judex in propria sua causa*; and (*ii*) opportunity of being heard to the party concerned i.e. *audi alteram partem*. These are known as principles of natural justice. To these principles a third principle is added, which is of recent origin. It is the duty to give reasons in support of decision, namely, passing of a "*reasoned order***"**.

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38. But that is not the end of the matter. While the law on the principle of *audi alteram partem* has progressed in the manner mentioned above, at the same time, the courts have also repeatedly remarked that the principles of natural justice are very flexible principles. They cannot be applied in any straitjacket formula. It all depends upon the kind of functions performed and to the extent to which a person is likely to be affected. For this reason, certain exceptions to the aforesaid principles have been invoked under certain circumstances. For example, the courts have held that it

would be sufficient to allow a person to make a representation and oral hearing may not be necessary in all cases, though in some matters, depending upon the nature of the case, not only full-fledged oral hearing but even cross-examination of witnesses is treated as a necessary concomitant of the principles of natural justice. Likewise, in service matters relating to major punishment by way of disciplinary action, the requirement is very strict and full-fledged opportunity is envisaged under the statutory rules as well. On the other hand, in those cases where there is an admission of charge, even when no such formal inquiry is held, the punishment based on such admission is upheld. It is for this reason, in certain circumstances, even post-decisional hearing is held to be permissible. Further, the courts have held that under certain circumstances principles of natural justice may even be excluded by reason of diverse factors like time, place, the apprehended danger and so on.

40. In this behalf, we need to notice one other exception which has been carved out to the aforesaid principle by the courts. Even if it is found by the court that there is a violation of principles of natural justice, the courts have held that it may not be necessary to strike down the action and refer the matter back to the authorities to take fresh decision after complying with the procedural requirement in those cases where non-grant of hearing has not caused any prejudice to the person against whom the action is taken. Therefore, every violation of a facet of natural justice may not lead to the conclusion that the order passed is always null and void. The validity of the order has to be decided on the touchstone of "*prejudice***"**. The ultimate test is always the same viz. the test of prejudice or the test of fair hearing.

41. In *ECIL* [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] , the majority opinion, penned down by Sawant, J., while summing up the discussion and answering the various questions

posed, had to say as under qua the prejudice principle: (SCC pp. 756-58, para 30)

> "*30.* Hence the incidental questions raised above may be answered as follows:
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> ***
>
> (*v*) The next question to be answered is what is the effect on the order of punishment when the report of the enquiry officer is not furnished to the employee and what relief should be granted to him in such cases. The answer to this question has to be relative to the punishment awarded. When the employee is dismissed or removed from service and the inquiry is set aside because the report is not furnished to him, in some cases the non-furnishing of the report may have prejudiced him gravely while in other cases it may have made no difference to the ultimate punishment awarded to him. Hence to direct reinstatement of the employee with back wages in all cases is to reduce the rules of justice to a mechanical ritual. The theory of reasonable opportunity and the principles of natural justice have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are not incantations to be invoked nor rites to be performed on all and sundry occasions. Whether in fact, prejudice has been caused to the employee or not on account of the denial to him of the report, has to be considered on the facts and circumstances of each case. Where, therefore, even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. It amounts to an 'unnatural expansion of natural justice' which in itself is antithetical to justice."

44. At the same time, it cannot be denied that as far as courts are concerned, they are empowered to consider as to whether any purpose would be served in remanding the case keeping in mind whether any prejudice is caused to the person against whom the action is taken. This was so clarified in *ECIL* [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] itself in the following words: (SCC p. 758, para 31)

> "*31*. Hence, in all cases where the enquiry officer's report is not furnished to the delinquent employee in the disciplinary proceedings, the courts and tribunals should cause the copy of the report to be furnished to the aggrieved employee if he has not already secured it before coming to the court/tribunal and given the employee an opportunity to show how his or her case was prejudiced because of the non-supply of the report. If after hearing the parties, the court/tribunal comes to the conclusion that the non-supply of the report would have made no difference to the ultimate findings and the punishment given, the court/tribunal should not interfere with the order of punishment. The court/tribunal should not mechanically set aside the order of punishment on the ground that the report was not furnished as is regrettably being done at present. The courts should avoid resorting to short cuts. Since it is the courts/tribunals which will apply their judicial mind to the question and give their reasons for setting aside or not setting aside the order of punishment, (and not any internal appellate or revisional authority), there would be neither a breach of the principles of natural justice nor a denial of the reasonable opportunity. It is only if the court/tribunal finds that the furnishing of the report would have made a difference to the result in the case that it should set aside the order of punishment."

The Supreme Court in the case of **Canara Bank and others**

v. Debasis Das and others reported in **(2003) 4 SCC 557** has held as under:-

> **22.** What is known as "useless formality theory" has received consideration of this Court in *M.C. Mehta* v. *Union of India* [(1999) 6 SCC 237] . It was observed as under: (SCC pp. 245-47, paras 22-23)
>
> "*22*. Before we go into the final aspects of this contention, we would like to state that cases relating to breach of natural justice do also occur where all facts are not admitted or are not all beyond dispute. In the context of those cases there is a considerable case-law and literature as to whether relief can be refused even if the court thinks that the case of the applicant is not one of 'real substance' or that there is no substantial possibility of his success or that the result will not be different, even if natural justice is followed see *Malloch* v. *Aberdeen Corpn.* [(1971) 2 All ER 1278 : (1971) 1 WLR 1578 (HL)] (per Lord Reid and Lord Wilberforce), *Glynn* v. *Keele University* [(1971) 2 All ER 89 : (1971) 1 WLR 487] , *Cinnamond* v. *British Airports Authority* [(1980) 2 All ER 368 : (1980) 1 WLR 582 (CA)] and other cases where such a view has been held. The latest addition to this view is *R.* v. *Ealing Magistrates' Court, ex p Fannaran* [(1996) 8 Admn LR 351] (Admn LR at p. 358) [see de Smith, Suppl. p. 89 (1998)] where Straughton, L.J. held that there must be '*demonstrable beyond doubt*' that the result would have been different. Lord Woolf in *Lloyd* v. *McMahon* [(1987) 1 All ER 1118 : 1987 AC 625 : (1987) 2 WLR 821 (CA)] has also not disfavoured refusal of discretion in certain cases of breach of natural justice. The New Zealand Court in *McCarthy* v. *Grant* [1959 NZLR 1014] however goes halfway when it says that (as in the case of bias), it is sufficient for the applicant

to show that there is 'real likelihood — not certainty — of prejudice'. On the other hand, *Garner's Administrative Law* (8th Edn., 1996, pp. 271-72) says that slight proof that the result would have been different is sufficient. *On the other side* of the argument, we have apart from *Ridge* v. *Baldwin* [1964 AC 40 : (1963) 2 All ER 66 : (1963) 2 WLR 935 (HL)] , Megarry, J. in *John* v. *Rees* [(1969) 2 All ER 274 : 1970 Ch 345 : (1969) 2 WLR 1294] stating that there are always 'open and shut cases' and no absolute rule of proof of prejudice can be laid down. Merits are not for the court but for the authority to consider. Ackner, J. has said that the 'useless formality theory' is a dangerous one and, however inconvenient, natural justice must be followed. His Lordship observed that 'convenience and justice are often not on speaking terms'. More recently, Lord Bingham has deprecated the 'useless formality theory' in *R.* v. *Chief Constable of the Thames Valley Police Forces, ex p Cotton* [1990 IRLR 344] by giving six reasons. (See also his article '*Should Public Law Remedies be Discretionary*?' 1991 PL, p. 64.) A detailed and emphatic criticism of the 'useless formality theory' has been made much earlier in 'Natural Justice, Substance or Shadow' by Prof. D.H. Clark of Canada (see 1975 PL, pp. 27-63) contending that *Malloch* [(1971) 2 All ER 1278 : (1971) 1 WLR 1578 (HL)] and *Glynn* [(1971) 2 All ER 89 : (1971) 1 WLR 487] were wrongly decided. Foulkes (*Administrative Law*, 8th Edn., 1996, p. 323), Craig (*Administrative Law*, 3rd Edn., p. 596) and others say that the court cannot prejudge what is to be decided by the decision-making authority. de Smith (5th Edn., 1994, paras 10.031 to 10.036) says courts have not yet committed themselves to any one view though discretion is always with the court. Wade (*Administrative Law*, 5th Edn., 1994,

pp. 526-30) says that while futile writs may not be issued, a distinction has to be made according to the nature of the decision. Thus, in relation to cases other than those relating to admitted or indisputable facts, there is a considerable divergence of opinion whether the applicant can be compelled to prove that the outcome will be in his favour or he has to prove a case of substance or if he can prove a 'real likelihood' of success or if he is entitled to relief even if there is some remote chance of success. We may, however, point out that even in cases where the facts are *not* all admitted or beyond dispute, there is a considerable unanimity that the courts can, in exercise of their '*discretion*', refuse certiorari, prohibition, mandamus or injunction even though natural justice is not followed. We may also state that there is yet another line of cases as in *State Bank of Patiala* v. *S.K. Sharma* [(1996) 3 SCC 364 : 1996 SCC (L&S) 717] , *Rajendra Singh* v. *State of M.P.* [(1996) 5 SCC 460] that even in relation to statutory provisions requiring notice, a distinction is to be made between cases where the provision is intended for individual benefit and where a provision is intended to protect public interest. In the former case, it can be waived while in the case of the latter, it cannot be waived.

23. We do not propose to express any opinion on the correctness or otherwise of the 'useless formality' theory and leave the matter for decision in an appropriate case, inasmuch as in the case before us, '*admitted and indisputable*' facts show that grant of a writ will be in vain as pointed out by Chinnappa Reddy, J."

23. As was observed by this Court we need not go into "useless formality theory" in detail; in view of the fact that no prejudice has been shown. As is rightly pointed out by learned counsel for the appellants, unless failure of justice is occasioned or that it would

> not be in public interest to dismiss a petition on the fact situation of a case, this Court may refuse to exercise the said jurisdiction (see *Gadde Venkateswara Rao* v. *Govt. of A.P.* [AIR 1966 SC 828]). It is to be noted that legal formulations cannot be divorced from the fact situation of the case. Personal hearing was granted by the Appellate Authority, though not statutorily prescribed. In a given case post-decisional hearing can obliterate the procedural deficiency of a pre-decisional hearing. (See *Charan Lal Sahu* v. *Union of India* [(1990) 1 SCC 613 : AIR 1990 SC 1480] .)

47. Thus, it is clear that any order cannot be quashed merely on the ground that opportunity of hearing was not given unless and until any prejudice is caused to the aggrieved person. During the course of submission, it was not argued by the counsel for the petitioner that any prejudice will be caused to him in case if Clause 23 of the order dated 04.10.2018 is held to be mandatory in nature with consequence to follow. Thus, it is held that although Clause 23 of the order dated 04.10.2018 does not contain the consequences, but the condition that "it would be mandatory on the part of the permit holder to begin operation of the Bus within a period of 60 days from the date of receipt of intimation", would also involve the consequences as mentioned in Rule 75 of the Rules 1994. Any other meaning given to this provision would frustrate the basic purpose of this Act. It is well established principle of law that while interpreting a statute, the Court must avoid interpretation which renders a person of administrative institution redundant or surplusage**.** The Supreme Court in the case of **Director, Central Bureau of Investigation and another Vs. D.P. Singh** reported in **(2010) 1 SCC 647** has held as under:

> **17.** If the construction put by the learned Senior

> Counsel for the respondent to sub-para (*iv*) is accepted, it would render the first part of sub-para (*iv*) viz. "In the case of a person which is initially taken on deputation and absorbed later (i.e. where the relevant recruitment rules provide for transfer on deputation/transfer), his seniority in the grade in which he is absorbed will normally be counted from the date of absorption", redundant and surplusage. Such construction would be against the basic rule of construction that language of the statute should be read as it is and a construction which results in rejection of words as redundant must be avoided.
>
> **18.** In *Aswini Kumar Ghose* v. *Arabinda Bose* [AIR 1952 SC 369] this Court observed that: (AIR p. 377, para 26)
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> > "*26.* … It is not a sound principle of construction to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute."

48. The Supreme Court in the case of **Paul Enterprises and others Vs. Rajib Chaterjee and company and others** reported in **(2009) 3 SCC 709** has held that the provision is required to be given a purposive meaning, i.e., a meaning which is acceptable of being translated in the action and not a meaning which would lead to anomally or absurdity. The meaning which satisfies the text and context in which word has been used is to be given.

49. The Supreme Court in the case of **Consumer Education and Research Society Vs. Union of India and others** reported in **(2009) 9 SCC 648** has held as under:-

> **63.** Therefore, upon a proper construction of the provisions of Articles 101 to 103, it is evident that a declaration by the President under Article 103(1) in the

> case of a disqualification under Article 102(1) and a declaration by the Speaker or the Chairman under Para 6 of the Tenth Schedule in the case of a disqualification under Article 102(2) is a condition precedent for the vacancy of the seat. If Article 101(3)(*a*) is interpreted otherwise, it will lead to absurd results thereby making it impossible to implement or enforce the relevant provisions of the Constitution or the RP Act.

50. Thus, any meaning which makes the condition of the compulsory operation of Bus within a period of 60 days from the date of receipt of intimation as redundant and ineffective should always be avoided specifically when the provision has been made for the benefit of the passengers and not for the benefit of the permit holder.

51. Even otherwise, this Court has already come to a conclusion that in spite of the fact that the order granting permit was issued, but still the petitioner was plying the same bus on different routes on the strength of temporary permits. During the course of arguments, it was accepted by the counsel for the petitioner that the temporary permit is to be obtained from the office of RTA, i.e. the authority who had granted permit by order dated 4/10/2018. This fact clearly shows that the petitioner was not interested at all to ply his bus on the strength of permit order dated 4/10/2018 and, therefore, no prejudice will be caused if the consequence of Rule 75 of Rules, 1994 is read in Clause 23 of order dated 4/10/2018. Even otherwise, it is not the case of the petitioner that after issuance of the permit by order dated 25/4/2022, he had ever plied his bus on the strength of such permit. However, the order dated 25/4/2022 was set aside by the STAT. Thus, it is clear that the petitioner never plied his bus on the strength of the permit order dated 4/10/2018, even during the period when there was no hurdle before him and he was having permit

issued in his favour by order dated 25/4/2022. Thus, it is held that Clause 23 of order dated 4/10/2018 carries an inbuilt consequence of automatic revocation of grant order dated 4/10/2018, in case if the operation of the bus is not initiated within a period of 60 days from the date of receipt of intimation. In the case of **Sitaram Sadho (supra)**, this question has also been dealt with by the co-ordinate Bench of this Court by holding that since the peremptory order was not complied with within the specified time, therefore, authority could not have extended the time or condoned the delay.

52. The principle which has been laid down in the case of **Sitaram Sadho (supra)** would also apply in the present case with equal force.

Whether the petitioner has locus to challenge the order dated 04.10.2018 and 25.04.2022 or not?

53. So far as the locus of respondent no.3 to challenge the order dated 25/4/2022 is concerned, it is true that the respondent no.3 was not the co-applicant or objector on 5/9/2018 when the petitioner had moved an application for grant of permit, but non-lifting of permit within the period of 60 days from the date of information had already resulted in automatic revocation of said permit. Although this Court has held that the petitioner was having constructive notice of order dated 4/10/2018 but even otherwise, it can be safely held that the petitioner was having specific and actual knowledge of order dated 4/10/2018 at least on 11/3/2019, i.e., when he entered his appearance in Revision No.27/2019. Non-filing of application within a period of 60 days from 11/3/2019 for lifting the permit had resulted in automatic cancellation / revocation of order dated 4/10/2018 and since the respondent no.3 had applied for grant of permit on the same route for the same timings on 27/1/2021, therefore, it cannot

be said that the respondent no.3 was not the claimant. Even otherwise, because of the action of the petitioner in not lifting the permit, a typical and peculiar situation had arisen, therefore, the right of the respondent no.3 to challenge the permit granted in favour of the petitioner cannot be denied because at a later stage, he had also applied for the same route. Since the order dated 04.10.2018 had already stood revoked therefore, in fact, the respondent No. 3 was the only claimant as petitioner had already gone out of the fray.

54. Under these circumstances, this Court is of the considered opinion that no case is made out warranting interference. Accordingly, the petition fails and is hereby **dismissed.**

(G.S. AHLUWALIA)
JUDGE

Abhi