THE INDIAN LAW INSTITUTE, NEW DELHI

Seminar

on

Administrative Law
Nainital-May, 1973

ADMINISTRATIVE PROCESS UNDER SECTION 62 OF THE MOTOR VEHICLES ACT

By

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The Motor Vehicles Act is a complete and precise scheme for regulating the issue of permits and other matters[1] and it is a complete code in itself creating new rights and providing for the adjudication of disputes arising in respect of such rights.[2] It deals with the various facets in the control of Motor Vehicles.

One of the important functions of the Act is to regulate the issue of permits to stage carriages, public carriers and contract carriages. Elaborate provisions for the grant of these permits are contained in the Act and it also provides for adjudicating the disputes arising therefrom.[3]

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1. Veerappa v. Raman & Raman (A.I.R. 1952 S.C.192).

2. Krishna Moorthy v. C.D.A. Transport C. (A.I.R. 1953 Mad.321) Motilal v. U.P. Government (AIR 1951All .....).

3. Section 64 deals with appeals & Section 64-A deals with revisions.

A stage carriage permit is of two types; a permanent of pucca permit; a temporary permit. The permanent permit is issued for 3 or 5 years[4] whereas a temporary permit is issued only for a short period not exceeding 4 months.[5] The authority to grant the permit is usually the Regional Transport Authority[6] (R.T.A. for short) and in certain cases the State Transport Authority[7]

In this paper an attempt is made to discuss the important functions of the authority and its powers and this is not intended as an exhaustive commentary on Section 62 of the Motor Vehicles Act.

Section 62 of the M.V.Act authorises the R.T.A., to grant a temporary stage carriage permit to be effective for a limited period not in any case to exceed 4 months if there is a temporary need to introduce such a service. Section 62 reads as follows:-

> "62. Temporary permits:- (1) A regional Transport Authority may without following the procedure laid down in Section 57, grant permits, to be effective for a limited period not in any case to exceed four months, to authorise the use of a transport vehicle temporarily:-
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> (a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or
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> (b) for the purposes of a seasional business, or
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> (c) to meet a particular temporary need, or
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> (d) pending decision on an application for

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4. Section 58(1).

5. Section 62(1).

6. Section 44 authorises the State Government to constitute Regional Transport Authorities and State Transport Authority to discharge the powers and functions conferred by or under Chapter IV of M.V.Act.

7. Section 44(3).

the renewal of a permit, and may attach to any such permit any condition it thinks fit:

"Provided that a temporary permit under this Section shall, in no case, be granted in respect of any route or area specified in an application for the grant of a new permit under Section 46 or section 54 during the pendency of the application:

Provided further that a temporary permit under this section shall in no case, be granted more than once in respect of any route or area specified in an application for the renewal of a permit during the pendency of such application for renewal".

Section 62 itself authorises the R.T.A. not to follow the procedure laid down under section 57. Section 57 deals with the procedure to be followed by the R.T.A. in granting regular stage carriage permit, the authority shall make the application available for inspection at the office of the authority and shall publish the application in the prescribed manner [8] together with a notice of the date before which representations in connection therewith may be submitted (the date not being less than 30 days from such publication) and the time and place at which, the application and any representation received will be considered.[9] This provision has been held to be mandatory.[10] Thus in granting the regular permit some delay is invitable. But in certain contigencies such a delay may be injurious to the interests of travelling public. Therefore provision is made in

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8. Usually such application is made in the official gazette.

9. Section 57(3).

10. Anwar Ahammed v. R.T.A. (AIR 1963 All 88) Pulsing v. S.T.A. (AIR 1957 All 254).

Section 62 which authorises the R.T.A. to grant a temporary permit to cover up such delay and they can provide transport facilities quickly by following the summary proceedings prescribed under Section 62. But there are certain other provisions contained in Section 57, which has nothing to do with the time factor. One such clause is section 57(7) where the R.T.A. is bound to give reasons while refusing any application. Another provision is contained in subsection (6) where the Retional Transport Authority is obliged to dispose of the application and the objection in a public meeting after an opportunity of being heard is given to them. In the context, it seems, the logical interpretation is to give exemption from the elaborate procedure prescribed under sub clauses (2) to (5) to Sec.57 while granting a temporary stage carriage permit. Again this construction is in line with the judicial opinions whereby statutory provisions should be interpreted to include principles of natural justice. This conclusion is also reinforced by the wording of Section 57(7). In that sub clause the words used are 'permit of any kind' thereby including a temporary permit as well. If the R.T.A. is exempted from the whole of Section 57 while granting a permit under Section 62, even it need not give a hearing, issue a notice and evaluate the merits of contesting applications. Such an exercise of power will lead to disastrous consequences.

Another question to be considered is whether the R.T.A. can issue a temporary permit without an application by an interested party. Section 62 is silent about this. But Sections 45,47 and 48 clearly show that an application is necessary before granting a stage carriage permit. The same conclusion can be arrived at from the decision of the Supreme Court in A.P.S.R.T.C. v. K.Venkita Rama and others.[11]

ADMINISTRATIVE OR QUASI-JUDICIAL

In modern welfare states, the general tendency is to confer large discretionary power on the executive. "Discretion to-day runs the whole gamut

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11. 1970 (1) SCWR 717

of the administrative process irrespective of whether the power is characterised an administrative, legislative or quasi-judicial".[12] In the very nature of things legislature cannot decide certain problems. Some times the legislature is not sure how to solve it and broad discretionary powers are conferred on the executive. In certain other cases, decision has to be made after taking into consideration a number of facts and situations, and the duty to decide it is left to the executive. In some cases the legislature prescribes some broad norms subject to which the executive has to exercise its discretion.[13] It has been held by the Courts time and time again that an unguided discretion conferred on the executive is against Article 14 of the Constitution, the legislature shall prescribe some norms subject to which the discretionary power is to be exercised.[14]

It is really very difficult to decide whether an authority is 'Quasi-judicial' or administrative. There are no definite and precise tests in characterising a particular action of the executive as administrative or 'Quasi-Judicial'. The distinction is important in certain cases and the courts evolved some general principles for distinguishing an 'administrative' action from a 'Quasi Judicial' action. The most imporatant ground[15] on which a function is held to be Quasi Judicial is when there is a lis interpertes and the authority is asked to adjudicate upon the lis. Now it is generally accepted in England[16] and India[17] that if the decision of an authority affects the rights of persons, such an authority is a Quasi Judicial one.

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12. Cases and materials on Administrative law in India (Indian Law Institute Publication) Vol.1 (66 Edn.) at p.563

13. See generally ibid Ch. VIII.

14. Bishamber v. Orissa (AIR 1954 S.C. 139) in Kerala Education Bill (AIR 1958 SC956) Jagdish Pandey v. Chancellor Bihar University (AIR 1968 S.C.353).

15. There are certain other well recognised tests as well.

16. Ridge v. Baldwin (1963 (2) W.L.R. 935).

17. Shri Bhagwan v. Ram Chand (AIR 1965 S.C.1767).

Thus if the authority has to decide some "adjudicative facts" i.e. facts about a person or his properties, the authority is functioning as a quasi judicial body, but if the authority is empowered to decide some "legislative facts" viz. facts which do not concern the individuals directly the action of the authority is administrative.[18]

Generally, when the law confers a discretion, the authority is characterised as 'administrative'[19-20] At the same time this is not the sole test and at times a different view is taken by the courts, according to the facts and circumstances of the case. The difficulty is best illustrated by the decision of the Supreme Court in Gullapnally Nageswara Rao v. A.P.S.R.T.C.[21] Section 68-C of the Motor Vehicles Act authorises the State Transport undertaking to prepare a scheme for a nationalisation providing for a partial or total exclusion of private operators from any route or areas if it is of opinion that it is necessary in public interest to do so for providing an efficient, adequate, economical or properly co-ordinated road transport service. Such a scheme has to be published in the official gazette. Any person affected by the scheme, may within 30 days of its publication file objections before the State Government,[22] and the State Government may, after giving an opportunity of being heard to the objectors and the State Transport undertaking approve or modify the scheme. The question before the Supreme Court was whether, in the circumstances, the function of the Government was 'Quasi -Judicial' or 'Administrative'. The majority held that the State Government while functioning under Section 68C and 68D was functioning as a quasi-judicial authority because it had to adjudicate upon a lis between two parties. The State Transport undertaking and the objectors. However, the Minority held that the function was only

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18. Davis: Administrative Law Treatise

19-20. Jain & Jain : Principles of Administrative Law p.103, Province of Bombay v. Kushaldas Advani (AIR 1950 SC 222).

21. A.I.R 1959 S.C.308.

22. Section 68D.

'Administrative'. Wanchoo J. held that there was no 'lis' between the objectors and the undertaking and the question for consideration by the Government was not the claims of objectors and the undertaking but whether such a scheme afforded an economic, adequate and co-ordinated road transport service. Chief Justice Sinha held that the provision for hearing an objector was meant not for inviting claims of the existing operators but to collect information regarding the feasibility of the scheme. His Lordship further held that a discretion was conferred on the Government by such terms as 'efficient, adequate and public interest'.

The predominent consideration in granting a permit under the Motor Vehicles Act is the interest of travelling public. Thus if a nationalisation scheme is conducive to the interest of travelling public, the mere fact that it involves loss of revenue to the objectors is no ground for disallowing such a scheme. An operator cannot be heard to say that by the implementation of the scheme his earnings may be reduced.[23] Moreover if there is a complete nationalisation, the Act also provides for giving an alternate route or compensation.[24] The decision of the Government on a question of nationalisation affects the parties only indirectly and the decision is based on 'legislative facts'[25] and as such the authority is functioning only as 'administrative'. The paramount consideration being 'interest of travelling public' and which is hard to determine objectively[26] it is safe to assume the function as 'administrative'. "Such question as those of 'public

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23. In Surendra Singh v. State of U.P. AIR 1966 All 455) it has been held that no person is entitled to a particular amount of money by way of profits and he cannot be heard to say that if the strength of a particular route is increased his financial increase would suffer and that the increase should not be allowed. This principle mutatis-mutandis applies to the nationalisation scheme.

24. Section 68G.

25. See classifications of Davis Supra.

26. Province of Bombay v. Kushaldas Advani (AIR 1950 SC222).

interest", 'public policy' or 'public purpose' are not easy to decide. The facts which may help in determining such questions usually are not complete because of the unavailability of the necessary data or of its lack of reliability. Further since such facts are 'general facts' not directly related to the party in dispute, the authority taking the action is supposed to have more intimate knowledge of such facts than the party before it. The information may be contained in the departmental record or other public records to which it may have an easy access, or it may have to be obtained through consultation with the officials within the department. However to check abuse of administrative power, some consultation with the effected party is desirable even in such a case. This may have to be secured through an express statutory provision providing for such consultation for the courts face a dilemma. If they hold the function as quasi judicial, it widens the scope of hearing and subjects the proceedings to certain strict standards. This prospect may, therefore, tempt the courts to ultimately hold the function involving wide discretion as administrative".[27]

In the light of these general observations let us examine section 62 of the Motor Vehicles Act. This section confers a two fold function on the authority. First the determination of temporary need and secondly if there is a temporary need, to grant the permit to the more qualified applicant.

In the first case, the authority has to decide whether there is a temporary need under clauses (a) to (d) of Section 62(1). Clauses (a)(b)or (d) present no difficulty because the authority has to determine the need if the concrete fact situation mentioned therein do exists. But clause (c) presents some difficulty. No definite standards are provided in this sub-clause, a wide discretion is conferred on the authority. At the same time the discretion is not unguided or uncontrolled because in deciding the temporary need, the authority has to take into consideration the matters mentioned in

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27. Jain & Jain opp.cit. p.104.

Section 47(1) viz. interest of public generally, the advantage to the public of the service to be provided, the adequacy of existing services or services to be introduced in the near future between the places to be served whether by roads or by other means, the benefits of any particular locality or localities likely to be afforded by the service, the experience and the conduct of the applicant and the conditions of roads included in the proposed area or route. The authority shall also take into consideration the representations by the existing operator or by a passenger association or by a local authority or a police authority within whose jurisdiction any part of the proposed route or area lies.

The primary duty to ascertain the temporary need is on the Regional Transport Authority itself. The provision for consideration of objections is not to invite claims of the objector but to collect information for its decision.[28] The decision is a matter of policy or information.[29] The matter mentioned in Section 47 are general facts, the authority is supposed to have more intimate knowledge, it may have an easy access to the departmental records.[30] Even though the decision on a temporary need may result in the introduction of an additional service and thereby affects the profits of an existing operator, the decision does not affect the objectors directly but only indirectly. Moreover, the predominent consideration in the grant of permits is the interest of travelling public and not the pecuniary interest of an existing operator.[31] In this respect viz. in the determination of temporary need, the R.T.A. is functioning administratively and not quasi-judicially.

The R.T.A. can ascertain the temporary need either in its own motion or on the basis of applications submitted to ti by interested parties

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28. See the discending note of Sinha C.J. in Gullappally case.

29. Ibid.

30. See footnote 27 supra.

31. Surendra Singh v. State of U.P. supra.

including an applicant. As stated above the primary duty to ascertain a temporary need is on the R.T.A. itself, but an interested party can point out a temporary need and on that basis the R.T.A. can enquire whether there is a temporary need. Still the R.T.A. can judge the need independent of the application.

Once the R.T.A. finds a temporary need, its next duty is to grant the permit to a suitable applicant. If there is only one applicant, there is no much difficulty; if he is qualified the R.T.A. can grant the permit to him. But if there are more than one applicant the authority has to make a comparative evaluation of the merits of the applicants and the permit has to be granted to the most qualified applicant. In both cases the function of the R.T.A. is quasi-judicial for the rights of applicants are directly affected by the decision of the R.T.A.[32]

There is nothing wrong in characterising one and the same authority as quasi-judicial and administrative in different stages of its proceedings.

SPEAKING ORDERS

Another interesting question is whether the R.T.A. is bound to give reasons for its decision in any matter arising under Section 62 of the Act.

It is now well settled that a quasi-judicial authority has to state reasons for its decision. Previously it has been held that the requirement of a reasoned decision was not a principle of a natural justice and the quasi-judicial bodies need not, in all cases, give reasons for its decision.[33]

32. See Ridge v. Baldwin 1963 (2) W.L.R. 935 see supra.

33. Nagendra Nath Bora v. Commissioner Hills Division (AIR 1958 SC398) Joseph v. Supt.Post Office (AIR 1961 Ker.197) Moideenkutty v. Kerala (AIR 1961 Ker.301) M.U.M.S. Ltd. v. R.T.A. (AIR 1953 Madras 59).

In England now it is statutorily provided that quasi judicial authorities have to give its reasons for its conclusion if requested to by the party.[34] Again if the court feels that in the special circumstances of the case there is no need to give reasons or it is practically impossible to give reaons, the adjudicating authorities need not give reasons for its conclusion.[35]

This general principle is also applicable in India. Even though there is no statute like Tribunals and Enquiries Act in India, the Judiciary insisted for a reasoned judgment by all quasi-judicial authorities. The court spelled out such a requirement from the provisions of Articles 136 and 226 of the Constitution of India.[36] In this respect the Indian position goes a step further than Section 12 of the Tribunals and Enquiries Act 1958 and in India the quasi-judicial authorities has to give reasons for its conclusion whether the party requested or not.

In Bhagat Raja v. Union of India,[37] the Supreme Court considered all aspects of the question and reviewed the entire case law. The question was whether the Central Government was required to give reasons for its decision while exercising the revisional jurisdiction under Rule 55 of Mineral Concession Rules, 1960. The appellant along with 2 others applied for a mining lease but the application of the appellant was rejected by the State Government (of A.P.). Against these orders the appellant filed revision petitions to the Central Government Under Rule 55 of the Rules but the Central Government also rejected the petitions without assiging any reasons. Although under rule 26 the State Government

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34. Section 12 of Tribunals and enquiries Act, 1958.

35. Section 12(3) of Tribunals Enquiries Act .....

36. M.P.Industries v. Union of India (AIR 1966 S.C.671.) Bhagat Raja v. Union of India (AIR 1967 S.C. 1606).

37. Ibid.

is obliged to give reasons for refusal to grant a mining lease there is no such express provision requiring the revisional authority viz. the Central Government to give reasons for its decision.

Relying on its previous decision in M.P. Industries Case the Court held that the Central Government was acting quasi-judicially while exercising powers under rule 55 because the entire scheme of the rules postulates a judicial procedure and the Central Government was constituted as a tribunal to dispose of the revision.[38]

It has been held by the Court the decisions of the tribunal in India are subject to the supervision jurisdiction of the High Courts. Under Article 227 and the appellate jurisdiction of the Supreme Court under Article 136 of the Constitution of India. The High Courts and the Supreme Court will be placed under a disadvantage if no reasons are stated in the order. In such a case the court have to look into the entire evidence and the record to come to its conclusion regarding the merits of the case. When the reasons given by the first authority is scrappy or nebulous and the revisional authority makes no attempt to clarify the same, the High Court or the Supreme Court had to examin the case affresh. Again if the first authority gives a number of reasons, some of which are good and some are not, and the revisional authority(C.G.) merely endorses the same without arising any reasons the court may not be in a position to ascertain which are the grounds which waighed with the Central Government in upholding the decision of the State Government in such circumstances a speaking order is called for.[39] Another argument raised was that since the State Government had to state reasons under Rule 26, the Central Government need not state reasons while affirming the order of the State Government.

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38. M.P.Industries Ltd. v. Union of India (AIR 1966 S.C.671); Shivji Nathu - Bhai v. Union of India (AIR 1960 S.C.606).

39. Bhagat Raja v. Union of India, Ibid at page 1610.

This argument was also reprelled by the court and held that in such circumstance also the Central Government had to state reasons. The same reasons was adopted by the court in earlier cases.[40]

In M.P.Industries v. Union of India[41] Subba Rao C.J., held that the arbitrativeness administrative tribunals would destroy the concept of welfare State and in order to minimise the arbitrativeness, the administrative tribunals should at least state the reasons for their decisions.

The above mentioned decisions unmistakeably tend to show that quasi judicial authorities have to state reasons for their decisions; otherwise their decisions are liable to the questioned by the High Courts or the Supreme Court on that ground alone. In all cases where an appeal or revision is provided the appellate or revisional authorities are always considered as quasi judicial authorities and reasons should be given for its conclusion whether they affirm or modify the decisions of the Ist authority[42]. But if the facts are so notorious that the reasons given by the first authority are too obvious and cannot be questioned by anybody, the appellate or revisional authority need not state reasons while affirming the decisions of the first authority.[43]

There is no doubt that while granting permits the R.T.A. is functioning in a quasi-judicial manner.[44] There is always a 'lis' between the applicants and the rights of applicants are directly affected by the

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40. Govinda Rao v. State of M.P. (AIR 1965 S.C. 1222) Harinagar sugar Mills v. Syam Sunder Jhunj Hanwala (AIR 1961 S.C. 166).

41. A.I.R. 1969 S.C.671.

42. See infra.

43. Nandram Hanatram, Calcutta v. Union of India (AIR 1966 S.C.1922)

44. See supra.

decisions of the authority. In such a case, the R.T.A. being a quasi - judicial authority has to state reasons for its decision. The M.V.Act itself expressly provides for this by Sec.57(7)[45]. Thus, if there are more than one applicant, the grant of the permit to one necessarily implies the refusal of other applications. Again if there is only one applicant for the grant of the permit and the R.T.A. decides to reject the application, even then reasons has to be given for rejecting the same because his rights are directly affected by the decision. This statutory obligation under Sec. 57 (7) is also applicable while granting temporary permits.[46]

The Act also authorises any interested party to[47] object to the grant of the permit. If such an objection is directed against the grant of the permit to a particular applicant and the R.T.A. rejects the objection, the R.T.A., being a quasi judicial authority, has to state reasons while rejection the objections.[48] But if there is only one applicant for the grant of the permits and there are no objections, the R.T.A. need not state reasons while granting the permit to him. The Appellate Tribunal while hearing appeals from the decision of the R.T.A. is also obliged to state reasons for its decision.

Another question to be considered is whether an administrative authority is bound to give a speaking

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45. Sec.57(7) "When a Regional Transport Authority refuses an application for a permit of any kind, it shall give to the applicant in writing its reasons for the refusal".

46. S.62 of the M.V.Act enjoins the R.T.A. not to follow the procedure laid down in Sec.57. Sub-clauses 2 to 5 of Sec.57 elaborately deals with the procedure for granting regular stage carriage permits. The object of Sec. 62 is to provide an urgent transport facility if there is a temporary need and that is why the R.T.A. is allowed to make a quick decision without following the formalities laid down in Sec.57 But subsection 7 of Sec. 57 has nothing to do with the time lag. So a harmonious construction should be adopted. A reasonable construction is that the opening words of Sec. 62 is applicable

contd. f.n. 46 and foot notes 47,48.

order and whether the Court can question the order on the mere ground that there is no speaking order.

The Supreme Court considered this question in detail in Rothas Industries Ltd. v. S.D.Agarwal.[49] The Court held that the powers conferred on the Central Government by Secs. 235 and 237 of the Companies Act[50] was "administrative" and not quasi-judicial. The discretion conferred on the government is to be exercised subject to certain conditions and the court is not precluded from examining whether those conditions are in existence at the time of the decision by the authority. The existence of the circumstance is open to judicial review although the opinion formed is not so liable. It has been held by H'nble Bachawat J.[51] that the directionary power conferred in an authority must be exercised honestly and not for corrupt or ulterior purposes. The authority must form the requisite opinion honestly and apply its mind to the relevant materials before it. Within this narrow limit the opinion is not conclusive and liable to be questioned before the Court. If there are no materials to form an opinion, the Court may infer that the authority has not applied its mind to the relevant facts. The resquisite opinion is then lacking and the condition precedent to the exercise of this power is not fulfilled.

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only to subclauses 2 to 5 of Sec.57 and not to Sec.57(7). This construction is also in confirmity with the general principles of constructions laid down by the Courts to the effect that if possible every section shall be construed in accordance with the principle of nature justice. The wording of Sec.57(7) also reinforces this argument. The word used in Sec.57(7) a "permit of any kind" thereby implying all kinds of permits including a temporary stage carriage permit.

47. Section 47.

48. Although in such a case Sec. 57(7) is not applicable, the general principles laid down by the Court is applicable.

49. AIR 1969 S.C.707.

50. These sections authorises the Central Government to appoint inspector to investigate the affirs of a company.

51. Ibid - in a concurring opinion.

The same view was also adopted by the Courts in its earlier direction in Barium Chemicals v. Company Law Board.[52] Thus the Court (per majority) departed from its earlier view[53] and took the view that the some sort of Control was necessary even in the exercise of discretionary power by administrative authority.

Thus, the Supreme Court in Rothas Industries Case and Barium Chemicals Case held that even in the case of 'administrative' functions, the authority should substantiate the grounds for its decisions when such an action was questioned before the Courts.

In this respect, eventhough the decision of administrative authorities are equated with the decision of quasijudicial authorities, there are certain differences in the nature of judicial control.

"The difference, however, is this that whereas a quasi - judicial body is boligated to make a speaking order and the order in the absence of reason would be quashed on that ground, it is not so in case of administrative body. What the Court has insisted upon in the two cases is that when an administrative action is challenged in a court of law, the administration should disclose to the Court the reasons on which it has taken the action in question, that the Court may decide whether or not the exercise of discretion is in any way vitiated. The position has not yet been reached where the administrative action may be questioned merely for failure to supply the reasons to the person affected thereby".[54]

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52. AIR 1967 S.C.295. But, however, the minority took the view that since the function of the authority was administrative, the Court could not inferfer with its findings eventhough there was no evidence to form the opinion.

53. State of Madras v. C.P. Sarathy (AIR 1953 S.C.53).

54. "Jain & Jain" "Principles of Administrative Law (1971) p.361.

The courts have a very limited control over the decision of temporary need by the R.T.A. because in this respect the function of the R.T.A. is administrative.[55] If the concerned files or at any rate the affidavit filed by the R.T.A. before the Court disclose some temporary need, the court has no jurisdiction to quash the order.

Although this is the true position some High Courts struck down the orders of the R.T.A. on the simple ground that no temporary need was stated by the authority[56] in its order. The Kerala High Court adopted this view.[57] The decision in Govindan v. R.T.A., Cannannore[58] may be taken as an example. The R.T.A. Cannannore granted a temporary stage carriage permit on the route Cannannore H.Q. Hospital to Azeekode on a sue - moto application filed by an applicant. At the same meeting, but before granting the temporary stage carriage permit, the R.T.A. decided to introduce a regular stage carriage service on the route Cannannore H.Q. Hospital to Azeekal. Azeekode is a place in between Cannanore and Azeekal. The petitioners who was not an objector either to the introduction of regular stage carriage service or to the temporary service, challenged the grant under Art. 226 of the Constitution of India. The Court, following its previous decision held that the grant was bad because no reason were stated for its finding on the question of temporary need. There is nothing in the decision to show that the Court looked into any record to see whether there is a temporary need. The Court struck down the order on the simple ground that no reasons were stated while finding the temporary need.

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55. See supra.

56. Kotiah Transports Ltd. v. R.T.A. (AIR 1956 Raj.33. Govindan v. R.T.A. (1972 KLT.242) and the decisions cited therein.

57. Govindan v. R.T.A., Cannanore (1972 KLT.242)
Damodarn v. R.T.A., Cannanore (O.P.No. 456 of 1971 unreported decided on on 25.3.71)
Balakrishnan Nair v. R.T.A. Trichur and others ((O.P. 877/1970 unreported decided on 9.3.1970).

58. 1972 KLT.242.

This view taken by the Court, it is admitted, is not in confirmity with the decision of the Supreme Court in Rothas Industries Ltd. Case and Barium Chemicals Case.[59] The Court should have looked into the entire record to see whether the finding of temporary need is supported by any evidence on record.

But some High Courts[60] took the view that a grant of temporary permit could not be set aside merely on the ground that no reasons were stated in the order itself but could be set aside only if there was nothing on record to prove the temporary need. Thus the Court can look into the file or the affidavit, filed by the R.T.A. to see whether there is a temporary need. If there is something in the record to justify the conclusion of the R.T.A. the Court can not interfere. This attitude is in line with the recent decisions of the Supreme Court. This view, it is submitted, seems to be the correct approach. Very recently, the Kerala High Court also adopted this approach.[61]

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59. See supra.

60. Capital Bus Service U.S.T.A. (AIR 1962 Punj. 17).

61. O.P.No. 988/73 unreported decided on 2.4.73.

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