

## Nationalisation – Scheme – Glance

### STAGE CARRIAGES:

Prior to 1972 Madras State Transport Department (MSTD) operated long distance routes besides the private operators who were operated in the districts. In 1972, the Government announced its policy on nationalization to the effect that the entire passenger transport service would be nationalized within five years. Therefore, the Tamil Nadu Stage Carriages and Contract Carriages (Acquisition) Act, 1973 was enacted to achieve the object. This act provided for the acquisition of Stage Carriages and Contract Carriages in Tamil Nadu State. After 1976, there was change in the policy of nationalization on this small operators who were already in the field for a long time have to be allowed to run their services. The Tamil Nadu Stage Carriages and Contract Carriages (Acquisition) Amendment Act, 1984 (Tamil Nadu Act 17/1984) was enacted. This act provided for granting exemption to small bus operators holding five or less Stage Carriage permits from the provision of the said Act. But, in 1987 the Supreme Court of India held that private operators other than those who were specifically permitted to operate while approving this scheme could not operate their buses either on the notified routes or on the routes, which overlap notified routes. As there was a situation to protect the existing small bus operators in the field who have been granted Stage Carriage permits during the period from 4.6.1976 to 30.6.1990 and to continue their services, the Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992 (Tamil Nadu Act 41/92) was enacted to give effect to the following decision taken by the Government: -

- (i) The existing private operators in the approved scheme routes alone may be allowed to operate and route length now operated by them may be frozen at the present level.
- (ii) Variations, if requested by private operators, in the said approved scheme routes may be allowed as per the conditions prescribed in the Tamil Nadu Motor Vehicles (Special Provisions) Rules, 1995.
- (iii) The policy adopted by the Government is to nationalize the bus services operated by the private operators on end to end route and to allow them to operate on sectors of the route and

- (iv) No new grant of permits need be granted to private operators in the approved scheme routes.

Thereafter, in 1995, the State Government formulated District wise scheme vide G.O.Ms.No.741 to 760, Home (Transport-III) Department, dated 23.5.1995 and notified them under section 100 of the Act in Tamil Nadu Government Gazette Extraordinary dated 24.5.1995. The said schemes cover all the districts in Tamil Nadu and they were reserved for operations by State Transport Undertakings to the complete exclusion of persons other than

- i) The State Transport Undertakings of other States.
- ii) The existing Permit Holder (small operators) covered under the Tamil Nadu Act 41/92.
- iii) The existing and future Permit Holder covered under Inter State Agreement.

In the Governors address on 9.3.2002 and in the budget speech for the year 2002-03, it has been announced that the Government propose to go in for phased privatization of select routes, services and operations in the bus transport system. Besides, it was considered that the proposed comprehensive restructuring of cash strapped State Transport Undertakings coupled with private sector participation would encourage healthy competition and efficiency in public transport services. In pursuance of this, a High Level Committee was constituted to work out the modalities for phased privatization and restructuring of State Transport Undertakings in G.O.Ms.No.105, Home (Transport) dated 17.5.2002. The committee submitted its report on 8.10.2002.

One of the recommendations of the High Level Committee is to exclude the permits transferred by State Transport Undertakings to private operators from the scheme of nationalization. In other words, if the scheme permits the State Transport Undertakings to transfer permits to private operators, and such permits can be excluded from the operation of this scheme. Under the said method, limited privatization of services operated by the State Transport Undertakings can be achieved.

The Government has examined the suggestion of the High Level Committee. Since the State Transport Undertakings are not in a position to augment the existing services and replace the old vehicles, it was considered the transfer of permits to the private operators is the best option. This would promote healthy competition and increase the efficiency of transport system. The traveling public will stand benefited. Keeping the public interest in mind, the Government has decided to modify the area scheme in such a way so that the permits transferred to the private operators by State Transport Undertakings are excluded from the area of nationalization.

Accordingly, draft notification amending the area schemes were notified in the official Gazette 12.11.2002. The hearing date was fixed on 17.12.2002. Meanwhile, CITU and others filed Writ Petitions Nos.43190/2002 etc. before the High Court challenging the draft notification. The main contentions raised before the Court are:

- (a) Transfer of permit by State Transport Undertakings is not permissible.
- (b) Issuing notification without specifying the services/routes that are proposed to be transferred to private operators make their position difficult to understand the scheme and give rise to doubts.
- (c) Individual notices have to be served on each objector.

Senior advocates appeared on behalf of the Writ Petitioners. The Government has filed counter Affidavits. The advocate General appeared on behalf of the Government and defended the Government's interest. However, the Court was of the view that since several important issues are being raised, it would be desirable to postpone the hearing to a future date. Accordingly, the Government postponed the hearing. Meanwhile High Court preferred the matter before a special bench for further consideration. Subsequently, the above Writ Petitions are ordered to be heard along with other batch of Writ Petitions relating to modified area scheme of 1999. The Writs are now pending.

### Scheme – Glance

1.	Prior to 1972, long distance routes were operated by MSTD., besides the private operators who were operating in the district.
2.	In 1972, the Government announced its policy of Nationalisation to the effect that the entire passenger Transport Service would be nationalised within five years.
3.	Therefore, the Tamil Nadu, Stage Carriages and Contract Carriages (ACQUISITION) Act 1973, was enacted to achieve the object.
4.	This Act provided for the acquisition of Stage Carriages and Contract Carriages in Tamil Nadu State.
5.	After 1976, there was a change in the Policy of Nationalisation and the small operators who were already in the field for a long time have to be allowed to run their services.
6.	The Tamil Nadu Stage Carriages and Contract Carriages (ACQUISITION) Amendment Act 1984, (Tamil Nadu Act 17/1984) was enacted. This Act provided for granting exemption to small bus operators holding 5 or less stage carriage permits from the provisions of this Act.
7.	In 1987, the Supreme Court of India held that Private Operators other than those who were specifically permitted to operate while approving the Scheme could not operate their buses either on the notified routes which overlapped the notified routes.
8.	As there was a situation to protect the existing small bus operators in the field during the period from 04.06.1976 to 30.06.1990 and to continue their services the Tamil Nadu Motor Vehicles (Special Provisions) Act 1992 (Tamil Nadu Act 41/1992) was enacted to give effect to the following decision taken by the Government.
(i)	The existing private operators in the approved scheme routes alone may be allowed to operate and route length now operated by them may be frozen.
(ii)	Variations, if requested by the private operators in the said approved scheme routes may be allowed as per the conditions prescribed in Tamil Nadu Motor Vehicle (Special Provisions) Rules,
(iii)	The policy adopted by the Government is to Nationalise the bus services operated by the Private Operators on end to end route and to allow them to operate on sector of the route.
(iv)	No new grant of permits need be granted to Private Operators in the approved Scheme routes.
9.	In 1994, the Government of Tamil Nadu formulated a Scheme of State Transport Undertaking in respect of Stage Carriages to all districts in Tamil Nadu and draft scheme has been approved under Section 100 (2) of Motor Vehicles Act 1988 in G.O.Ms.No.741 to 760, Home (Tr.III) Department, dated 23.05.1995. Thus in 1995 all districts in Tamil Nadu have been nationalised with the following exclusion Clause

	<p>a) State Transport Undertaking of Other States.</p> <p>b) The existing permits of small operators protected under the Tamil Nadu Motor Vehicles (Special provisions Act 1992).</p> <p>c) also the permits of Stage Carriage Operators operating on inter-state routes whose permits are covered by Inter-State Agreement.</p>
10.	Thereafter, in 1997, the Government modified the said Area Wise Scheme to enable the operation of Mini Buses to cover unserved rural areas under executive orders in G.O.Ms.No.1248 to 1268, dated 01.09.1997, for a distance of 16 kms of which 1 km in sector already covered by State Transport Undertaking.
11.	In G.O.Ms.No.995, Home dated 30.07.1998 the Government modified the route length of 16 kms as 12 kms in unserved areas and 4 kms in served areas.
12.	This order was Challenged by the W.P.No.12475 of 1998 batch the Honourable Court on various grounds.
13.	In G.O.Ms.No.1475, Home dated 28.10.1998 route length was increased to 20 kms from 16 kms.
14.	To remove the Legal infirmities pointed out by the Honourable High Court, Madras, a revised Modified Area Scheme was published in G.O.Ms.No.1532 and others, dated 17.11.1999. This scheme permitted the operation of Mini buses upto a route length of 20 kms with an overlapping of 4 kms on the served sector. The Government also fixed a ceiling of 250 permits per revenue district.
15.	This Modified Schemes of 1999 was also challenged in W.P.No.19067/1999. The Learned Justice Honourable High Court Thiru.E. Padmanabhan dismissed the Writ Petitions on 28.07.2000, and validated the 1999 scheme.
16.	In G.O.Ms.No.1134, Home dated 18.10.2000, Mini Bus Scheme in Nilgiris District with a route length of 24 kms with overlapping 8 kms.
17.	In W.A.(MD) No.135 and 136 of 2006 the High Court Madurai Bench has set aside the grant of Mini Bus Permit holding that Mini Bus Service is also a stage carriage service and so as route served by a Mini Bus shall be treated as a route served by stage carriages to all purposes. (a) In view of the judgement no new permits were able to be granted to the entire State.
18.	In order to solve all the legal issues the Government decided to draw up A New Comprehensive Scheme and in G.O.Ms.No.271, Home dated 10.03.2010 New Comprehensive Scheme was published. (a) In G.O.Ms.No.1057, Home dated 14.12.2009 Government delegated powers to Regional Transport Authority for formulate routes.
19.	The persons who are likely to be affected by this notification were heard on 26.04.2010 by the Home Secretary at Secretariat, Chennai, where representations and objections

	were received.
20.	3 Writ Petitions (MD) Viz., W.P.5482/2010, 5483/2010 and 7259/2010 were filed before the Madurai Bench of Madras High Court against this New Comprehensive Scheme.
21.	New Comprehensive Scheme 2011 to further Modify the Approved Modified Area Schemes 1999. [G.O. Ms. No. 136, Home (Transport-III), 23rd February 2011.]