

State of Tamil Nadu and Others

Vs

L. Abu Kavur Bai and Others

Civil Appeals Nos. 957-966 (N) of 1973

(CJI Y. V. Chandrachud, A. Varadarajan, O. Chinnappa Reddy, Syed M. Fazal Ali, V. D. Tulzapurkar JJ)

31.10.1983

JUDGMENT

FAZAL ALI, J. -

1. One of the planks of building an egalitarian society in order to achieve socio-economic emancipation is the policy of nationalisation of industries. Easy, cheap and dependable transport is a prime social necessity. Unfortunately, no State has been able to achieve this goal so far by a full-fledged nationalisation. Reliance is largely placed on schemes framed under Chapter IV-A of the Motor Vehicles Act.

2. Perhaps Karnataka was the only State which having become 'sadder and wiser' took the lead in enunciating the bold step of complete nationalisation of the entire transport industry but, unfortunately, it has not yet been able to implement it fully.

3. There are two methods by which the transport industry can be nationalised :

(1) where the Government acts under Chapter IV-A [Section 68(b) and (c) of the Motor Vehicles Act] and after due publication formulates a scheme for taking over route or routes and invites objections thereto. After the objections have been received they are decided and ultimately processed. This method however is dilatory and involves a time consuming process which leads to delaying tactics adopted by the operators. Even so, after the objections have been decided, the operations or the persons concerned are not satisfied but go up in appeals to the law courts. These delaying tactics have resulted in most cases in an indefinite postponement of the scheme of nationalisation. Moreover, normally this process is applied to a route or routes selected by the Government and is accomplished by stages which also takes a long time.

(2) Another method which is the more effective one is to take over the running of the entire transport services by nationalising them, along, with their units (vehicles, workshops, etc.) either by one stroke or by stages spread over a short time. This course is clearly permissible under clauses (b) and (c) of Article 39 of the Constitution as would be discussed in a later part of the judgment.

4. The Karnataka State tried the second method and succeeded, to some extent, but run into difficulties for one reason or the other. The Tamil Nadu State following the Karnataka pattern

passed the impugned Ordinance, which later took the shape of the Tamil Nadu State Carriages and Contract Carriages (Acquisition) Act, 1973 (hereinafter referred to as the 'Act') to nationalise the State transport industry by stages. The Madras High Court stayed the operation of the Ordinance as also the Act and declared void all its provisions. As a result, nationalisation of transport became a stillborn child and its progressive policy was stifled the day it was put into action.

5. It is this judgment of the High Court which is the subject-matter of appeals and Writ petitions before us. The Madras High Court declared the Act ultra vires as being violative of Articles 14 and 19 of the Constitution as it did not fall within the protective umbrella contained in Article 31-C and on a number of other grounds which would be examined hereafter.

6. It is manifest that the attempt of the Tamil Nadu Legislature to give effect to the principles enshrined in Article 39(b) and (c) would have secured the socialist objective aimed by the Constitution in order to build up an egalitarian society. By virtue of complete nationalisation the members of the public or the community would have got much better and greater facilities than afforded to them by the private operators running vehicles under permits. Secondly, the efficiency and efficacy of the services would undoubtedly make a marked improvement in the manner and method of running the vehicles as compared to the services run by private operators. Thirdly, prior to the passing of the Act, the entire services were actually run behind the screen through various financiers in the name of the operators with whom they had entered into hire-purchase agreements. This obviously led to concentration of wealth in the hands of a few. With the coming into force of the total nationalisation scheme, this device of concentration of wealth would be completely nipped in the bud resulting in an equal distribution of wealth and services among the people of the country. Fourthly, the private services run by the operators mainly inspired by profit making motive neither had the will nor the capacity to penetrate as deep as possible into areas so far inaccessible to the travelling public and would confine their running of the services only to serve important points. When the State takes over the entire transport services, it would undoubtedly be its duty to see that the vehicles reach the most distant part or corner of the State and serve as many travelling public as possible so that nobody is caused any inconvenience. These are some of the initial advantages of a total nationalisation scheme, which would be brought to the fore and provide an ideal service for the members of the community at large. It may be that in this process some financiers would suffer loss and some operators may also be wiped out of the business but this cannot be helped as the scheme of our Constitution is that individual rights or benefits must yield to the larger benefits and good of the entire community. Some of these points were very elaborately dealt with in the case of State of Karnataka v. Ranganatha Reddy ((1978) 1 SCR 641 : (1977) 4 SCC 471 : AIR 1978 SC 215) (for facility, hereinafter referred to as Karnataka case ((1978) 1 SCR 641 : (1977) 4 SCC 471 : AIR 1978 SC 215)).

7. The Act was for the purpose of carrying out and implementing the objects specified in Article 39(b) and (c) and was, therefore, immune from challenge on the ground that the Act or its provisions were violative of Article 14, 19 or 31. This was accomplished by virtue of Article 31-C, introduced by the Twenty-fifth Constitution Amendment, which gave a protective umbrella to such acts so as to exclude them from the operation of Article 14, 19 or 31. Before dealing with the provisions of the Act we might give a resume of the importance and significance of the directive principles contained in Article 39(b) and (c) which may be extracted thus :

39. The State shall, in particular, direct its policy towards securing -

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(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

8. We would not like to tread on the difficult and delicate ground as to whether or not the directive principles or the fundamental rights have primacy over one or the other. Nevertheless, it would appear that right from 1959 upto date this Court has stressed and emphasised the importance of directive principles in a number of cases, some of which may be listed below :

(a) Mohd. Hanif Quareshi v. State of Bihar (1959 SCR 629, 648 : AIR 1958 SC 731);

(b) In Re the Kerala Education Bill, 1957 (1959 SCR 995, 1020, 1021 : AIR 1958 SC 956);

(c) I. C. Golak Nath v. State of Punjab ((1967) 2 SCR 762, 789-790 : AIR 1967 SC 1643);

(d) Chandra Bhavan Boarding & Lodging, Bangalore v. State of Mysore ((1970) 2 SCR 600, 612 : (1969) 3 SCC 84, 93 : AIR 1970 SC 2042);

(e) His Holiness Kesavananda Bharati Sripadagalavaru v. State of Kerala (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461).

9. In State of Kerala v. N. M. Thomas ((1976) 1 SCR 906, 993-996 : (1976) 2 SCC 310 : 1976 SCC (L&S) 227 : AIR 1976 SC 490) one of us (Fazal Ali, J.) reviewed the earlier cases and has collected the ratio of all the decisions on this point at one place.

10. In recent decisions on the subject the view that has crystallised is that the courts should attempt to give a harmonious interpretation to the directive principles contained in part IV of the Constitution even though not enforceable. Attempt should, therefore, be made to reconcile the two important provisions rather than to arrive at conclusions which bring into collision these two provisions - one contained in part III and the other in part IV. We must appreciate that the reason why the founding fathers of our Constitution did not advisedly make these principles enforceable was perhaps due to the vital consideration of giving the Government sufficient latitude to implement these principles from time to time according to capacity, situations and circumstances that may arise.

11. On a careful consideration of the legal and historical aspects of the directive principles and the fundamental rights, there appears to be complete unanimity of judicial opinion of the various decisions of this Court on the point that although the directive principles are not enforceable yet the court should make a real attempt at harmonising and reconciling the directive principles and the fundamental rights and any collision between the two should be avoided as far as possible.

12. In the instant case, we are really concerned with the second limb of the Constitution, viz., the importance and significance of the directive principles contained in part IV. We now propose to discuss the purport, significance, scope, ambit and rationale of Article 31-C, which may be extracted thus :

31-C. Saving of laws giving effect to certain directive principles. - Notwithstanding anything contained in Article 13, no law giving effect to the policy of the State towards securing all or any of the principles laid down in part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14 or Article 19; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy :

Provided that where such law is made by the Legislature of a State, the provisions of this Article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

13. A brief setting and origin of this Article is contained in the Objects and Reasons of the Constitution (Twenty-fifth Amendment) Act, 1971, which show that the amendment was introduced with the main objective of getting over the difficulties placed in the way of giving effect to the directive principles of State policy.

14. It is manifest from a bare reading of the newly added Article 31-C that any law effectuating the policy of the State in order to secure or comply with the directive principles specified in clauses (b) and (c) of Article 39 would not be deemed to be void even if it is inconsistent with or violates Article 14, 19 or 31. It was further provided that any law which contains a declaration that it was put on the statute book for giving effect to such a policy, the same could not be called into question in any court on the ground that the new law does not give effect to the policy. In other words, the position was that once Article 31-C was put on the statute book, the question of any law being in violation or infraction of the fundamental rights contained in Part III (Articles 14, 19 and 31) ceased to be justiciable. Article 31-C further provided that where a law is made by the Legislature of a State, the provisions of this Article would apply only if the law had received the assent of the President of India. We might mention here that it is undisputed in the instant case that the impugned law had received the assent of the President and is, therefore, fully enforceable in the State of Tamil Nadu if it fulfils the conditions of Article 31-C, which it doubtless does. A substantial part of this amendment appears to have been held to be valid by a majority of 7 : 6 in *His Holiness Kesavananda Bharati Sripadagalavaru v. State of Kerala* (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461) (hereinafter referred to as 'Bharati case' (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461)), But a portion of Article 31-C was held to be invalid.

15. While considering the scope, ambit and constitutional validity of Article 31-C, the majority judgment in *Bharati case* (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461) held that the first part of Article 31-C was valid but the second part, viz., "and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy" was held to be invalid. In other words, so far as the present aspect of the case before us is concerned, the majority judgment clearly held that while Article 31-C permitted Parliament to make any law giving effect to the policy of the State towards securing the principles contained in clauses (b) and (c) of Article 39, such law could not be declared void even if such a course of action violates or abridges any of the rights conferred by Article 14, 19 or 31.

16. Another crucial stage in the history of Article 31-C arose when the famous forty-second amendment of the Constitution was passed by the Parliament. By virtue of this amendment a complete, irrevocable and impregnable constitutional protection was given to laws passed not only to implement the principles specified in clauses (b) and (c) of Article 39 but also the principles

contained in all the clauses of Article 39. However, to put the record straight and to complete the history of Article 31-C we may briefly indicate the distinction between the twenty-fifth and forty-second amendments thus :

17. Whereas in the twenty-fifth amendment, the protective umbrella given by the Constitution was restricted to laws passed only to promote objects in clauses (b) and (c) of Article 39, by virtue of the forty-second amendment the limitations which were confined to clauses (b) and (c) of Article 39 were taken away and the Article was given a much wider connotation by legislating that Acts or laws giving effect to all or any of the principles laid down in part IV of the Constitution would be protected by the umbrella contained in Article 31-C and would be immune from challenge on the ground that they were violative of Article 14 or 19.

18. Even so, in *Minerva Mills Ltd. v. Union of India* ((1981) 1 SCR 206 : (1980) 3 SCC 625), one of us (Chandrachud, C.J.) while referring to the ratio of *Bharati* case (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461) on the unamended Article 31-C observed as follows : (SCC p. 658, para 68)

Indeed, if there is one topic on which all the 13 Judges in *Kesavananda Bharati* (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461) were agreed, it is this : that the only question open to judicial review under the unamended Article 31-C was whether there is a direct and reasonable nexus between the impugned law and the provisions of Article 39(b) and (c). Reasonableness is evidently regarding the nexus and not regarding the law.

19. Thus, it would appear from a combined reading of *Bharati* (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461) and *Minerva Mills* ((1981) 1 SCR 206 : (1980) 3 SCC 625) cases as also of the subsequent decisions that the undisputed position is that Article 31-C, as introduced by the twenty-fifth amendment, is constitutionally valid in all respects and has survived the stormy decision of *Bharati* case (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461).

20. Similar observations were made in *Waman Rao v. Union of India* ((1981) 2 SCR 1 : (1981) 2 SCC 362 : AIR 1981 SC 271), where one of us (Chandrachud, C.J.) observed thus : (SCC p. 399, para 54)

... Article 31 is now out of harm's way. In fact, far from damaging the basic structure of the Constitution, laws passed truly and bona fide for giving effect to directive principles contained in clauses (b) and (c) of Article 39 will fortify that structure ....

21. In the latest Constitution Bench decision of this Court in *Sanjeev Coke Manufacturing Co. v. M/s. Bharat Coking Coal Ltd.* ((1983) 1 SCC 147), it has been emphasised that the constitutional validity of Article 31-C is now beyond challenge and in this connection one of us (Chinnappa Reddy, J.) speaking for the Court made the following observations : (SCC p. 160, para 12)

In the second place, the question of the constitutional validity of Article 31-C appears to us to be concluded by the decision of the Court in *Kesavananda Bharati* case (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461).

22. In view of the aforesaid decisions, it is not necessary for us to dilate further on the question of the constitutional validity of Article 31-C.

23. Another important facet of Article 31-C which has been emphasised by this Court is that there

should be a close nexus between the statute passed by the Legislature and the twin objects mentioned in clauses (b) and (c) of Article 39. In approaching this problem and considering the question of nexus a narrow approach ought not to be made because it is well settled that the courts should interpret a constitutional provision in order to suppress the mischief and advance the object of the Act. The doctrine of nexus cannot be extended to such an extreme limit that the very purpose of Article 39(b) and (c) is defeated. By requiring that there should be nexus between the law and Article 39(b) and (c) what is meant is that there must be a reasonable connection between the Act passed and the objects mentioned in Article 39(b) and (c) before the said Article can apply. If the nexus is present in the law then the protection of Article 31-C becomes complete and irrevocable.

24. Furthermore, the fact that there is a declaration in the Act regarding the propose mentioned in Article 39(b) and (c) may generally be evidence of the nexus between the law and the objects of Article 39(b) and (c). In this connection, Krishna Iyer, J., in the Karnataka case ((1978) 1 SCR 641 : (1977) 4 SCC 471 : AIR 1978 SC 215) observed thus :

... The requisite declaration contemplated in Article 31-C is thus made in the preamble as well as in Section 2 of the Act .... (SCC p. 500, para 55.) The nexus between the taking of property and the public purpose springs necessarily into existence if the former is capable of answering the latter. (SCC p. 502, para 57)

25. There is no particular magical tinsel or ritualistic formula in the term 'nexus' which may be closed in a strait-jacket. Even a nationalisation scheme meant for the purpose of distribution or preventing concentration of wealth, as in this case, would be sufficient nexus to attract the operation of Article 39(b) and (c). On this aspect of the matter, Krishna Iyer, J. in the Karnataka case ((1978) 1 SCR 641 : (1977) 4 SCC 471 : AIR 1978 SC 215) further observed thus : (SCC p. 515, para 82)

The next question is whether nationalisation can be have nexus with distribution .... To 'distribute', even in its simple dictionary meaning, is to "allot, to divide into classes or into groups" and 'distribution' embraces arrangement, classification, placement, disposition, apportionment, the way in which items, a quantity, or the like, is divided or apportioned; the system of dispersing goods throughout a community ....

26. In a later decision in Sanjeev Coke Manufacture Co. case ((1983) 1 SCC 147), adverting to this very point, one of us (Chinnappa Reddy, J.) made the following observations : (SCC p. 165, para 17)

We are firmly of the opinion that where Article 31-C comes in Article 14 goes out. There is no scope for bringing in Article 14 by a side wind as it were, that is, by equating the rule of equality before the law of Article 14 with the broad egalitarianism of Article 39(b) or by treating the principle of Article 14 as included in the principle of Article 39(b) ....

27. We might now mention in the passing some important facets of Article 31-C which we shall discuss in detail when we deal with the various provisions of the Act in the light of the reasons given by the High Court and the contentions advanced before us. At this stage, suffice it to say that on a proper and true construction of Article 31-C in the light of the decisions of this court, the question of compensation becomes totally irrelevant. If, once the conditions mentioned in Article 31-C are fulfilled by the law, no question of compensation arises because the said Article expressly excluded not only Articles 14 and 19 but also 31 which, by virtue of the twenty-fifth amendment, had replaced the word 'amount' for the word 'compensation' in Article 31(2). As already extracted,

Chandrachud, C.J. in Waman Rao case ((1981) 2 SCR 1 : (1981) 2 SCC 362 : AIR 1981 SC 271) has observed that once Article 31-C is attracted, Articles 14, 19 and 31 are out of harm's way.

28. The question whether in a case where Article 31-C applies, compensation is necessary to be given, has the following facets :

- (a) if Article 31-C is taken, as it must be, to exclude Article 31(2), the question of compensation becomes irrelevant and otiose,
- (b) nationalisation of transport services by the State is unobjectionable and unexceptionable and can be accomplished in there different methods -
  - (i) nationalisation of the services and not the units thereof,
  - (ii) nationalisation of the services along with the entire assets of the units, and
  - (iii) nationalisation of the services and part of the assets of the units of the operators.

29. In the instant case, the State of Tamil Nadu has taken recourse to method (iii) above, i.e., it has nationalised the entire transport service as also a part of the entire assets of the units thereof. It is obvious that as nationalisation is a policy decision, an enquiry into the policy of the Legislature or the considerations governing the same cannot be made by the courts unless the policy is so absurd as to violate the provisions of the Constitution. In view of Article 31-C, which gives protective umbrella against Article 31(C) also, the court cannot strike down the Act merely because the compensation for taking over the transport services or its units is not provided for. The reason for this is that Article 31-C was not merely a pragmatic approach to socialism but imbibed a theoretical aspect by which all means of production, key industries, mines minerals, public supplies, utilities and services may be taken gradually under public ownership, management and control.

30. Even as far back as 1963 in Akadasi Padhan v. State of Orissa (1963 Supp 2 SCR 691, 704 : AIR 1963 SC 1047), Gajendragadkar, J., speaking for the Constitution Bench, observed thus :

... To the rationalist, nationalisation or State ownership is a matter of expediency dominated by consideration of economic efficiency and increased output of production ....

The amendment made by the Legislature in Article 19(6) shows that according to the Legislature, a law relating to the creation of State monopoly should be presumed to be in the interests of the general public. Article 19(6)(ii) clearly shows that there is no limit placed on the power of the State in respect of the creation of State monopoly .... In our opinion, the amendment clearly indicates that State monopoly in respect of any trade or business must be presumed to be reasonable and in the interests of general public, so far as Article 19(1)(g) is concerned.

31. Thus, even in 1963 the change in the approach by the Supreme Court towards social problems had come to be seriously felt so much so that any policy of nationalisation of assets or State monopoly was held to be so necessary to acquire the goal of building an egalitarian society as to make the restrictions contained in Article 19(1)(g) reasonable. In other words, even if Article 31-C was not there, the policy of nationalisation of transport services could be held to be valid on the basis of this decision and would not violate Article 19, being a reasonable restriction. The major part of the spirit of Article 31-C, which was introduced almost a decade after the above decision,

was clearly anticipated and accepted in Akadasi Padhan case (1963 Supp 2 SCR 691, 704 : AIR 1963 SC 1047) and this Court in a way paved the way for a more socialistic reform which may destroy any obstacle coming in the way of achieving the important directive principles of the Constitution. More than this we would not like to say anything regarding this decision because Articles 14, 19 and 31 are completely excluded by Article 31-C. The provisions to validate laws made to secure the objects in Article 39(b) and (c) seem to be the conclusive chapter of a humble beginning with an appeal to the courts to make a doctrinaire and pragmatic approach in such cases.

32. Mr. Ray rightly argued that in view of the provisions of Article 31-C, the Act squarely falls within the protective umbrella of the said Article inasmuch as in pith and substance, the Act seeks to subserve and secure the objects contained in clauses (b) and (c) of Article 39 and is, therefore, fully protected from the onslaught of Articles 14, 19 and 31. To counter the argument of Mr. Ray, S/Shri Asoke Sen, Venugopal and Sanghi made twofold submissions. In the first place, it was argued that the manner in which the transport services had been nationalised under the Act does not fall within the ambit of Article 39(b) and (c) as the buses or the vehicles were not an integral part of the policy of nationalisation. Secondly, Mr. Venugopal submitted that if the Act would have nationalised the transport services without taking over the units and the workshops, etc., then the operators could have had something to fall back upon to earn their livelihood. Complete deprivation of livelihood by the Act amounts to a confiscatory piece of legislation and therefore void. Although the arguments are attractive, on closer scrutiny they seem to be without substance. Once it is held that the policy of nationalisation of transport services is valid, which is no doubt an essential service and a type of a State monopoly, any consequence that may follow cannot be taken into consideration; otherwise no social reform can ever be brought about. All schemes of monopoly or nationalisation are meant to serve the public good and individual interests in such cases must yield to the good of the general public. Moreover, on a close examination of the argument it seems to us that it is wholly untenable. The various provisions of the Act clearly provide for a just and reasonable compensation which may not be equal to market value of the units taken over but cannot be said to be illusory or shocking to the conscience of the court.

33. Although we have found that Article 31 having been excluded no question of compensation arises, even so it seems to us that courts while interpreting the policy of total nationalisation and being imbued with a keen sense of the doctrine of justice and fair play have projected the question of compensation in a very limited sense and a restricted extent by holding that the word 'amount' merely means some sort of reasonable amount which may or may not be adequate in the circumstances. We feel that in view of the explicit and express provisions of Article 31-C the question of compensation does not arise at all and even if it does, the matter is concluded by a 7-Judge Bench decision of this Court in the Karnataka case ((1978) 1 SCR 641 : (1977) 4 SCC 471 : AIR 1978 SC 215).

34. Having dealt with the various aspects of Article 31-C, we now proceed to examine the provisions of the Act in the light of the law laid down by this Court and the aforesaid conclusions reached by us. To begin with, the Act given a detailed preamble describing the ends and objects of the Act. We might mention that in the first paragraph of the preamble, clause (c) of the Article 39 was not mentioned in the Ordinance but when the Ordinance was replaced by the Act, clause (c) of Article 39 was inserted. A perusal of the various clauses of the preamble reveals that the legislation was a purely progressive measure meant not to confiscate the property or destroy the business of the stage carriage operators but to take absolute control of the State transport services by stages in various revenue districts.

35. As already indicated, the Act was preceded by an Ordinance, containing identical provisions, which was issued on January 12, 1973. The constitutional validity of the Ordinance was challenged in the Madras High Court and while the judgment of the High Court was pending, the Ordinance was replaced by the Act on March 14, 1973. The High Court struck down the Ordinance as being unconstitutional and an interim order was passed by which all the provisions of the Act were stayed, pending appeal to this Court. Some time in June 1973, an interim order was passed by this Court by which the transport vehicles not taken over by the State were stayed from being taken over.

36. Coming to the provisions of the Act, it would be seen that so far as Section 1 is concerned, it is more or less descriptive with the only difference that as far as the Nilgiri District is concerned, the provision says that the policy of nationalisation shall come into force on January 14, 1973. In other words, the intention of the Act is to start the nationalisation scheme with the Nilgiri District first and then extend it to other districts as and when it becomes necessary. Clause (iii) of sub-clause (4)(b) of Section 1 lays down that with respect to stage carriages in any other district in the State, the Act will come into force on such date as the Government may by notification appoint. Section 2 codifies one of the clauses of the preamble by enacting a declaration that the Act is meant for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution and the acquisition in respect of the stage carriages and contract carriages and other properties referred to in Section 4. After the Act was passed, by virtue of the decision in the Bharati case (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461) whatever may have been the legal status or position of the directive principles so far as clauses (b) and (c) of Article 39 are concerned, they were held to be constitutional and any Act passed to enforce these principles clearly fell within the protective umbrella of Article 31-C and was therefore immune from challenge. We have already adverted to this aspect of the matter heretofore.

37. Sub-section (2)(a) of Section 2 provides that the acquisition of the stage carriages shall commence with the districts wherein comparatively fewer number of stage carriages were operating. This provision appears to have been incorporated in order to cause the least possible inconvenience to the bus operators so that the operators of the other districts where the nationalisation of the scheme has not been enforced may make due preparations and alternative arrangements in case the concerned districts are also included in the nationalisation scheme by virtue of the notifications issued from time to time under the Act.

38. Section 3 only gives the definitions of the various expressions used in the Act and, for the time being, it may not be necessary for us to give a detailed description of clauses (a) to (s) of this section.

39. Section 4, which is the pivotal section, provides that on and from the date as may be specified by the Government in respect of any stage carriage or contract carriage operator, the permit issued to the operator shall vest in the Government absolutely free from all encumbrances and such carriages or contract carriages, which vest in the Government, shall by force of such vesting be freed and discharged from any trust, obligation and encumbrances, etc. In other words, the intention of the Act was that while nationalising the State transport services the State should not encumber itself with the liabilities that may have been incurred by the bus operators prior to the enforcement of the Act so that the policy of nationalisation may run smoothly and without any obstruction or obstacle. At the same time, Section 4 also provides that any person interested shall have no claim in relation to such carriages or contract carriages taken over by the State in pursuance of the aforesaid nationalisation policy and the claim, if any, would be limited to the amount payable in respect of such stage carriages or contract carriages as provided under the Act. Sub-section (2) of Section 4

lays down an important safeguard that all rights, title and interests of the stage carriage operators or contract carriage operators, including lands, buildings, workshops and other places, stores, instruments, machinery, tools, plants and other equipments used in connection with the service of these carriages would also vest in the State.

40. There was a serious controversy regarding his provision and it was vehemently attacked by the counsel for the respondents on the ground that this is a very harsh and strident provision of the Act which completely destroys not only the fundamental right of the operators by also the right to equality under Article 14. Even if Article 14 or 19 apply, the vesting of machinery, tools, etc., which were the personal property of the operators meant to carry on their business, would amount to a confiscatory piece of legislation. We shall deal with this aspect of the case when we consider the various contentions advanced before us by counsel for both the parties. At this stage, it is sufficient to remark that even the books of account, registers, etc. would vest in the Government on the issue of the notification and all hire-purchase agreements and transaction, etc. would be deemed to have been withdrawn. The main object in enacting this provision is that when the Government decides to nationalise the transport services or its units, all the means of business should vest in the Government so that after the vesting the Government does not feel itself bound by any commitment or contracts made by the operators which might make the policy abortive as a result of which the scheme of nationalisation itself may run into rough weather.

41. Sub-section (3) of Section 4 contains a declaration that the vesting of the stage carriages and other properties shall be deemed to have been acquired for a public purpose, that is to say, acquisition of not only the stage carriages or the contract carriages used by the operators but also their tools, implements and workshops would be in public interest in order to prevent any legal or constitutional objection being taken against the various movables which by virtue of the provisions of the Act vest in the Government.

42. Section 5 contains provisions of a routine nature regarding the submission of accounts, agreements, inspection by Government officers, furnishing of data and details and the like. Another important provision of the Act is Section 6 which provides for a reasonable amount of compensation to be paid to the operators on their properties vesting in the Government. Sub-section (1) of Section 6 says that every person interested shall be entitled to receive such amount as may be determined in the second schedule to the Act, that is to say, where the amount can be fixed by agreement, the same shall be determined in accordance with the agreement. Secondly, where no agreement can be reached, the Government shall appoint as arbitrator a person who is or has been or is qualified for appointment as a District Judge. While appointing an arbitrator, the Government may, if necessary, nominate a person having expert knowledge as to the nature of the acquired property to assist the arbitrator. The two provisions clearly show the attitude of fairness that the Act displayed towards the operators on the vesting of their properties in the Government. Clause (e) of sub-section (1) of Section 6 provides that the arbitrator after hearing the dispute and the parties concerned, would determine the amount which appears to him to be just and reasonable and also specify the person or persons who would be entitled to the aforesaid compensation. Clause 1(f) of Section 6 provides that where there is a dispute of title with respect to the distribution of the amount the same would be apportioned amongst the persons concerned by the arbitrator. At the same time, to exclude any further disputes during the process of arbitration, clause (g) of sub-section (1) of Section 6 provides that the provisions of the Arbitration Act, 1940 (Central Act X of 1940) shall not apply to the arbitrations made under Section 6.

43. Sections 7 and 8 contain the usual procedure for filing of claims and the conditions thereon.

What is important to be noticed is that the award of the arbitrator is not made final but is subject to an appeal to the High Court.

44. Section 12 clearly provides that any person aggrieved by an award, may within 30 days from the date of such award prefer an appeal to the High Court. The proviso however empowers the High Court to condone the delay in suitable cases where sufficient cause preventing a claimant from filing the appeal within the time prescribed is made out.

45. Before going to other provisions we would like to make a reference to the schedule which fixes the scale of compensation and enunciates the principles on the basis of which it is to be awarded to the operators whose stage carriages or contract carriages are taken over by the Government. The table containing the guidelines for payment of compensation may be extracted below :

# THE TABLE Period Percentage  
1. Not more than six months prior to the notified date 852.  
2. More than six months prior to the notified date but not exceeding one year 753.  
3. More than one year but not exceeding two years 704.  
4. More than two years but not exceeding three years 685.  
5. More than three years but not exceeding four years 676.  
6. More than four years but not exceeding five years 66-2/37.  
7. More than five years but not exceeding six years 598.  
8. More than six years but not exceeding seven years 419.  
9. More than seven years but not exceeding eight years 2910.  
10. More than eight years but not exceeding nine years 2111.  
11. More than nine years but not exceeding ten years 1412.  
12. More than ten years but not exceeding eleven years 1013.  
13. More than eleven years but not exceeding twelve years 714.  
14. More than twelve years but not exceeding thirteen years 4###

46. It would be seen from a perusal of these guidelines that heavy compensation has not been provided for, obviously because if compensation at the market rate is given it would amount to a huge drain on the State treasury which may cause a complete financial breakdown and thus frustrate the very policy of nationalisation. We might mention here that the respondents argued that the rates of compensation were wholly inadequate and absolutely illusory because the arbitrator or the High Court cannot travel beyond the second schedule in assessing the compensation. Mr. S. S. Ray, appearing for the appellant-State fairly conceded that the schedule was merely a sort of a guideline which was not exhaustive for determining the quantum of compensation and it may be taken as a concession on behalf of the State that the officers fixing the compensation were entitled to make marginal but not vital departures from the principles of compensation laid down by the Act which seems to be the real intention of the statute in question by providing for a broad-based compensation and allowing the same to be decided by the highest court of justice in the State, viz., the High Court. In the circumstances, it cannot be said that the compensation provided is absolutely illusory or shocking to the conscience of the court which is the only requirement of Article 31(2).

47. Then there are other routine provisions contained in Section 11 which provide the manner in which the payment of the amount adjudicated by the compensation authorities is to be given. Clause 1-A even awards interest at the rate of 6 1/2 per cent per annum on the said amount and certain other options are given to the operators.

48. Section 13 provides the legal procedure to be adopted in arbitration proceedings and for the purpose the arbitrator would have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908. Section 13 also applies this procedure for summoning and enforcing the attendance of witnesses, requiring discovery and production of documents, reception of evidence on

affidavits, requisitioning any public record or a copy thereof from any court or office and issuing commissions for examination of witnesses or documents.

49. Section 14 however carves out an exception regarding the acquisition of the state carriages or contract carriages from applying for any new permit or renewal of the existing permit after the acquisition of the stage carriages or contract carriages by the State. It also provides that every application for grant of a new permit or renewal of an existing permit or any appeal or revision relating thereto made or preferred before January 14, 1973, the date of the enforcement of the Act, and pending before any court or any officer or authority or tribunal shall abate. This appears to us to be a very salutary provision in order to prevent further recurring disputes.

50. Section 15 provides that the transfer of the stage or contract carriages on or after January 14, 1973 and before the notified date, is prohibited. It further provides that no person shall after the aforesaid date transfer by way of sale or gift any stage or contract carriage liable to be acquired under the Act.

51. Section 16 provides for grant of temporary permits to the operators and the circumstances under which and the period for which they could be extended or transferred and as a consequence of the pivotal section it also provides that no stage or contract carriage operator would be able to obtain any temporary permit in respect of any area or route which has been notified in the Act.

52. Section 17 prohibits transfers of any stage or contract carriage and enjoins that if any transfer is made, the same shall be void and is liable to be acquired by the Government. Section 18 makes a provision for the appointment of administrators for arranging the taking over of the acquired property and for carrying out the duties assigned to them. Section 19 also makes an identical provision for appointment of authorised officers. Section 20 is also an important provision which has been introduced for the purpose of safeguarding the existing staff of the operators for being absorbed in the State Transport Department of the Government, on a given scale, or any corporation or company owned by the Government and for this purpose a number of steps have been detailed in this section.

53. Section 21 gives the resultant consequences of the policy of nationalisation and prescribes the modes in which the newly acquired stage or contract carriages are to be run by the corporation or the company or the State Transport Department of the Government to which the acquired property is transferred.

54. Section 25 is also a sort of a routine provision making provisions for issue of orders, notices and the manner of delivering the same, etc. Section 26 is an important section which exempts particular types of stages or contract carriages from the operation of the Act, such as stage or contract carriages held by the Central Government, any State Government, any company controlled or owned by the Central Government or any State Government. Section 27 is the usual section which provides immunity to persons discharging their duties in good faith in pursuance of the Act. Section 28 bars jurisdiction of civil courts in certain matters. Section 29 is a penal provision which provides for punishment for offenses committed in violation of the provisions of the Act. Section 30 invests certain officers like administrators, arbitrators, authorised officers, etc., with the status of a public servant within the meaning of Section 21 of the India penal Code. Section 31 is the saving provision which overrides other laws on the passing of the Act. Section 32 is the rule-making power given to the Government for carrying out the purposes of the Act.

55. Before discussing the reasons given by the High Court for striking down the Act we might dispose of an important argument advanced before us for the appellant to the effect that the provisions formed the subject-matter of a Constitution Bench decision of this Court by which the Karnataka Act was upheld. On the basis of the aforesaid decision, it was submitted that the matter stands concluded by a seven Judge Bench decision of this Court and the appeal should be allowed on this ground alone. On the other hand, the respondents challenged the correctness of the appellants submission and contended that there are marked and sharp points of difference between the two Acts. We are, however, unable to accept this contention for the reasons given hereafter.

56. By the large the provisions of the two Acts appear to be identical in many respects and the general structure and the fundamental features of the two Acts are almost the same. The broad features of the two Acts may be summarised as follows :

- (a) both the Acts aim at the policy of nationalisation of transport services (Karnataka Act started with only stage carriage but the Act has also taken within its fold contract carriages),
- (b) both the Acts clearly mentioned that the object of nationalisation was to secure the ends of Article 39(b) and (c),
- (c) both the Acts seem to convey that being a national policy evolved by the Government itself, it would undoubtedly be in great public interest,
- (d) the process of distribution of material resources and the units taken over is more or less the same,
- (e) by and large the scope and ambit, the manner and the method of formulation of the nationalisation policy are identical, and
- (f) the principles of compensation and the machinery provided for determining the same in both the Acts are absolutely similar with minor and negligible variations here and there.

57. Thus, all the arguments addressed regarding the constitutional validity of the Karnataka Act before this Court apply equally and fully to the present Act and in view of the Clear decision of this Court in the Karnataka Case very little survives so far as the arguments in this case, advanced on behalf of the respondents, are concerned. On the other hand, three important decisions of this Court, viz., *Minerva Mills* ((1981) 1 SCR 206 : (1980) 3 SCC 625), *Waman Rao* ((1981) 2 SCR 1 : (1981) 2 SCC 362 : AIR 1981 SC 271) and *Sanjeev Coke Manufacturing Co.* ((1983) 1 SCC 147) cases, which were given after the Karnataka case, reinforced and reiterate the conclusions reached by this court in the Karnataka case.

58. Before examining the reasons given by the High Court we would like to mention certain important facts which have come into existence after the Act was passed by the Tamil Nadu Legislature as also after the judgment of the High Court, which fall under three heads :

- (1) that by virtue of the constitution (Twenty-fifth Amendment) Act, 1971 a new Article in the shape of Article 31-C was inserted in the Constitution with the avowed object of highlighting the importance of so of the important directive principles contained in part IV of the Constitution. Article 31-C provides that no law made by a

Legislature in order to secure the principles specified in Article 39(b) and (c) shall be deemed to be void on the ground that it abridges any of the rights enshrined in Article 14, 19 or 31. The said amendment further provides that no law containing a declaration that it has been passed for giving effect to such a policy shall be called in question in any court on the ground that it does not give effect to such a policy. There is a proviso to Article 31-C which mandates that before the provisions of the Article can apply, the law must have received the assent of the President of India.

The Tamil Nadu Legislature seems to have taken abundant precaution of mentioning the object contained in Article 31-C by providing clearly in its preamble, as indicated above, that the Act was passed with the intention of giving effect to the principles enunciated in Article 39(b) and (c);

(2) that when the new Article 31-C created controversies, 13 judges of the Supreme Court examined not only the said Article but also a number of other provisions of the Constitution in order to decide as to how far the amended provisions affected the basic structure of the Constitution. It may be sufficient to state here for the purpose of this case that so far as Article 31-C is concerned it was unanimously held by the entire court that the first part of Article 31-C, introduced by the Constitution Twenty-fifth Amendment Act, was valid;

(3) thus, it is manifest that Article 31-C gives a complete protective umbrella to any law passed with the object of achieving the aims and goals of Article 39(b) and (c) so as to make it immune from challenge on the ground that the said law violates Article 14, 19 or 31. The only condition for application of Article 31-C is that there should be a direct and reasonable nexus between the law and the provisions of Article 39(b) and (c), and the reasonableness would be regarding the nexus rather than the law.

59. In view of the aforesaid developments most of the conclusions arrived at and the important reasons given by the high court no longer survive and fade into oblivion. The counsel for the parties also realising this difficulty did not press all the arguments that were advanced before the High Court or accepted by it but confined their arguments to be framework and applicability of Article 39(b) and (c). In fairness to the High court we cannot blame it because the law on Article 31-C was crystallised after the delivery of its judgment. We, therefore, propose to give a very brief summary of the reasons given by the High court for striking down the Act laying stress only on the points that survive.

60. In the first place, the High Court seems to have accepted the argument of Mr. Chari, appearing for the operators, that by virtue of the Act the financiers who were the owners of the stage or contract carriages would be completely wiped out of their business and therefore Article 19 was clearly violated. As Article 31-C gives complete immunity from challenge in respect of any law made to promote the objects enshrined in Article 39(b) and (c), this argument to longer survives and was wrongly accepted by the High Court.

61. This now brings us to the nature of the compensation awarded to the operators in the Karnataka case which appears to be on all fours with the facts of this case. We must hasten to add that as already discussed above, in view of Article 31-C no compensation is necessary as Article 31(2) is clearly excluded by Article 31-C but proceeding on the assumption that some sort of compensatory relief may be necessary, we approach this question only as a piece of an alternative argument. To

being with, while dealing with the question of compensation, Untwalia, J., in the Karnataka case clearly pointed out that by virtue of the Twenty-fifth Amendment, the question of compensation may not arise, yet right from Bharati case (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461) upto date it has now been held that the amount payable in respect of acquired property should be fixed by the Legislature or determined on the basis of principles contained in the law of acquisition and should not be wholly arbitrary or illusory or monstrously undervalued, and in this connection, the learned Judge observed thus : (SCC p. 483. para 15)

... For the purpose of deciding the point which falls for consideration in these appeals, it will suffice to say that still the overwhelming view of the majority of Judges in Kesavananda Bharati case (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461) is that the amount payable for the acquired property either fixed by the Legislature or determined on the basis of the principles engrafted in the law of acquisition cannot be wholly arbitrary and illusory. When we say so we are not taking into account the effect of Article 31-C inserted in the constitutional by the Twenty-fifth Amendment (leaving out the invalid part as declared by the majority).

62. The lines italicised by us contain an important emphasis to show that the complexion of the necessity of compensation has completely changed in view of the Twenty-fifth Amendment by which Article 31-C was introduced and Untwalia, J. was, therefore, careful enough not to imply that even after the passing of the Twenty-Fifth Amendment, the question of compensation would still be necessary.

63. In the same strain, Krishna Iyer, J., in that very case observed as follows :

... Full compensation with a formal difference ! The Court will not question the 'adequacy' directly, but 'interpret' the amended Articles into the same desideratum ..... (SCC p. 508, para 71)

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... The Court could satisfy itself only about the amount not being a monstrous or unprincipled under-value ..... (SCC p. 512, para 76)

The payment may be substantially less than the market value, the principles may not be all-inclusive, but the Court would not because it could not, upset the taking save where the principles of computation were too arbitrary and illusory to be unconscionably shocking. (SCC p. 512, para 76)

64. Thus, from a perusal of Bharati (1973 Supp SCR 1 : (1973) 4 SCC 225 : AIR 1973 SC 1461) as also Karnataka cases the following principles for assessing compensation after the amendment of Article 31(2) by substitution of the word 'amount', may be summarised :

- (1) that compensation should not be arbitrary or illusory,
- (2) that the amount fixed as compensation should not be unprincipled,
- (3) that the compensation sought to be paid should not be so arbitrary or illusory as to be unconscionably shocking and
- (4) it is not necessary that the compensation must represent the actual market value

or be adequate, for even if compensation is inadequate but not illusory, the requirement of Article 31(2) is fully complied with.

65. Relevant sections of the Act, on the question of compensation are completely in accordance with the principles enunciated above and hence the argument of the counsel for the respondents that the compensation is wholly inadequate or illusory must be overruled.

66. Applying these principles to the provisions of compensation, discussed above, it seems to us that the facts of this case are identical with those of the Karnataka case. The principles on which compensation was awarded in that case have been bodily lifted and placed in the present Act. The main features of the Act relating to compensation may be summarised thus :

(1) a regular method and the manner in which compensation is to be assessed is to be found in the second schedule to the Act,

(2) we have already mentioned that Mr. Ray conceded during the course of arguments that the said schedule is not exhaustive but it is open to the arbitrator or the High Court to make marginal changes as and when necessary.

(3) the factors and circumstances to be taken into consideration vide Section 6 and the second schedule clearly spell out that if compensation is allowed on the basis of those factors it cannot be said to be arbitrary, illusory or monstrously unconscionable.

67. It is true that the compensation awarded may not represent the market value or perhaps may be even inadequate but that is not the tests laid down in the amended Article 31(2). On this ground, therefore, the constitutionality of the Act cannot be challenged.

68. All said and done, it was contended by the respondents that at least the taking over of both the stage and the contract carriages along with the workshops, etc., amounts to a very harsh provision so as to be confiscatory. We have already dealt with this argument. In addition to what we have stated, it may be observed that once a policy of nationalisation is in public interest and for public good, some losses, some damages, some prejudices and some harsh consequences are bound to follow but this does not mean that the aforesaid considerations should result in a stalemate of the policy of State monopoly or nationalisation otherwise the country cannot move forward even an inch from where it was when our Constitution came into force. Gajendragadkar, J., in *Akadasi Padhan* case (1963 Supp 2 SCR 691, 704 : AIR 1963 SC 1074) had pointed out that these are matters of high policy and the courts cannot go behind the policy unless the policy itself is patently unconstitutional or arbitrary.

69. We have found that the compensation awarded or the principles contained in the various sections of the Act are not illusory but amount to a just and sufficient compensation to the operators whose properties are taken away. In fact, it was to meet such situations that Article 31-C was introduced so that any obstacle resulting in evil consequences to the operators or persons whose properties are taken over is completely removed. For these reasons, we reject this argument of the respondents counsel as being totally ill-founded.

70. It was then argued for the respondent that the nationalisation of the entire transport services along with the vehicles and workshops, etc., cannot be in public interest because it would not serve any public good. In the same token, it was argued that the manner and method in which nationalisation policy has been enacted in the Act does not per se secure the twin objects of Article

39(b) and (c) for two reasons -

(1) that taking over of the vehicles tools, implements and the workshops, etc., is not contemplated by Article 39(b) as they are movable properties and therefore not material resources.

(2) that the measure, if translated into action, does not prevent the concentration of wealth in the hands of a few and hence Article 39(c) is not attracted at all.

71. We shall deal with these arguments one by one. Coming to the first argument that the nationalisation is not in public interest, the said argument is to be stated only to be rejected as it has been clearly pointed out in the Karnataka case that a nationalisation policy of this type is undoubtedly in public interest.

72. In Black's Law Dictionary (special Deluxe Fifth Edition) at page 1107 the words 'public purpose' have been defined thus :

The term is synonymous with governm\_\_ental purpose ..... A public purpose or public business has for its objective the promotion of the public health, safety, morals general welfare, security prosperity and contentment of all the inhabitants or residents within a given political division as for example a State, the sovereign powers of which are exercised to promote such public purpose or public business. 73. This matter is concluded by a decision of this Court in the Karnataka Case where it was held that the purpose of a public body to run a public transport service is undoubtedly in public interest and in this connection Krishna Iyer, J., observed thus : (SCC p. 501, para 57) ..... The purpose of a public body to run a public transport service for the benefit of the people, operating it in a responsible manner through exercise of public power which is controlled and controllable by society through its organs like the Legislature and, at times, even the court, is manifestly a public purposes...

And Untwalia, J., speaking for the Court made the following observation : (SCC p. 482, para 11)

.... Why can't movables be acquired for commercial purposes if the exigencies of the situation so require ? A particular commercial activity of the State may itself be a public purpose .....

74. In the instant case also, it would appear that the State has nationalised the stage and contract carriages for the purpose of providing a general and expeditious transport at reasonable rates to the members of the public and in view of the observations referred to above, we can come to no other conclusion except that such a policy is undoubtedly in public interest and involves an important public purpose.

75. As a limb of this argument, the High Court held that Article 39 would not be applicable in the present case. As extracted above, Untwalia, J., in the Karnataka case summarily rejected this very argument and further pointed out that where the Legislature thought of preventing misuse in the running of the vehicles by private operators and in order to provide better facilities to the transport passengers or to the general public, acquisition of vehicles or for that matter the rights and interests in the contract carriage operators along with their land, buildings workshops, etc., would always be permissible. We cannot conceive of a greater public interest in respect of a policy than where the legislature expressly intends to promote or secure the objects of Article 39(b) and (c) particularly

when as indicated above, the said two clauses have been conferred a special status and given an impregnable protection by Article 31-C itself. We, therefore, fully agree with the view taken by this Court in the Karnataka case and hold that the nationalisation of the transport services is undoubtedly in public interest.

76. As regards the application of Article 39(b) and (c) the High Court on the basis of previous decisions of this Court held that -

- (1) the objects of Article 39(b) and (c) have not been sub-served, and
- (2) Article 39 has not application to movable properties and since the vehicles taken over by the state under the Act were movable properties, Article 39 was not applicable in the present case.

77. With due respect, this view is not correct and proceeds on a misconception of the law and interpretation of the words 'material resources as mentioned in Article 39(b). In fact, Article 39(b) does not mention either movable or immovable property. The actual expression used in "material resources of the Community ". Material resources as enshrined in Article 39(b) are wide enough to cover not only natural or physical resources but also movable or immovable properties. Black's Law Dictionary defined the word resources thus :

Money or any property that can be converted to meet needs; means of raising money or supplies; capabilities of raising wealth or to supply necessary wants. (P. 1178)

78. The mere fact that the resources are material will make no difference in the concept of the word resource. In Stroud's Judicial Dictionary (Vol. 3) at page, 1634, the word material is defined thus :

Materials tools or implements, to be used by such artificer in this trade or occupation, if such artificer be employed in mining; .... Wooden props or 'sprags' though neither "tools or implements" were 'materials' within these words .... 'Material' includes a painter's bucket of distemper and brush.

79. In Webster's Third New International Dictionary at page 1934 the word 'resources' has been defined thus :

available means (as of a country or business) : computable wealth (as in money, property).

80. In Words and Phrases (Permanent Edition) Vol. 37-A, the word 'Resources' has been defined at page 16 thus :

Resources included products of farm, forest, manufacture, art, education, etc ..... The 'resources' of a country include its land, timber, coal, crops, improvements, railways, factories and everything that goes to make up its wealth or to render it desirable.

81. In the Karnataka case, Krishna Iyer, J., observed thus : (SCC p. 515, para 81)

And material resources of the community in the context of reordering the national economy embraces all the national wealth, not merely natural resources, all the private and public sources of

meeting material needs, not merely public possessions .....

82. The question as to the connotation of 'material resources' as mentioned in Article 39(b) and (c) came up for consideration in a recent Constitution-Bench decision of this Court in Sanjeev Coke Manufacturing Co. case ((1983) 1 SCC 147) where one of us (Chinnappa Reddy, J.) made the following observations :

The next question for consideration is whether the Cooking Coal Mines (Nationalisation) Act is a law directing the policy of the State towards securing "that the ownership and control of the material resources of the community are so distributed as best to subserve the common good". Coal is, of course, one of the most important known sources of energy, and, therefore, a vital national resource ..... (SCC p. 165, para 18)

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..... Shri Sen argued that material resources had first to be acquired by the State before they could be distributed. A law providing for acquisition was not a law for distribution. We are unable to appreciate the submission of Shri Sen ..... (SCC p. 166, para 19)

83. The above decision therefore furnishes a complete answer to the reasons given by the High Court or the arguments advanced before us by the counsel for the respondents on the question as to the nature and character of material resources.

84. Summarising the arguments relating to compensation and the prejudice causes to the operators, and the nationalisation policy contained in the Act, the position seems to be as follows :

85. In the first place, as indicated above, once Article 31-A applies, the net of the protective umbrella is so wide as to cut at the root of even Article 31(2) which alone survives after Bharati case. We have already point out that it the State chooses to monopolise trades in certain essential commodities or properties, for the purposes mentioned in Article 39(b) and (c), Article 31(2) would be completely excluded, otherwise no State monopoly is ever possible because a reasonable amount which may have to be paid as compensation may completely drain out the financial resources of the State or the public exchequer to such an extent that the noble endeavour to monopolise a particular trade would become almost impossible, as a logical result of which the purposes sanctified in Article 39(b) and (c) would also become incapable of implementation. It was for these reasons that Parliament thought it advisable to protect the objects contained in Article 39(b) and (c) from the purview of Article 31(2).

86. Secondly, Article 31(2) by virtue of the twenty-fifth amendment has knocked out the word 'compensation' and has substituted the word 'amount' which gives ample discretion to the State to fix a reasonable amount if the property of an individual is taken over for public purpose. In the instant case, as an intense social purpose which in indicated by the Constitution, is involved even an apology of compensation would be sufficient to comply with the conditions required by Article 31(2). Even so, in the instant case, as pointed out above, there is a clear mode of compensation provided which is to be assessed by an arbitrator and is subject to judicial scrutiny by the highest court in the State, namely, the High Court. The schedule which contains the principles of compensation is wide enough to ensure a fairly reasonable compensation to be given to the

operators whose vehicles are taken over. The court in such matters cannot interfere with the amount fixed is so monstrous as to shock its conscience. Having regard to the provisions in the schedule and the manner and mode of grant of compensation, we are unable to hold that the compensation provided for is wholly inadequate or absolutely monstrous.

87. Thus, so far as this aspect of the matter is concerned, two conclusions broadly emerge :

(1) that in view of the express provisions of Article 31-C which excludes Article 31(2) also where a property is acquired in public interest for the avowed purpose of giving effect to the principles enshrined in Article 39(b) and (c), no compensation is necessary and Article 31(2) is out of the harm's way, and

(2) that even if the law provides for compensation, the courts cannot go into the details or adequacy of the compensation and it is sufficient for the State to prove that the compensation was reasonable and not monstrous or illusory so as to shock the conscience of the court.

88. The persons whose properties are taken over cannot be heard to complain that the compensation awarded to them should be according to market value which, if conceded, would defeat the very purpose and objective of Article 39(b) and (c). In the instant case, both the conditions mentioned above are fully satisfied having regard to the provisions of the Act.

89. The last contention raised by the respondents was that the conditions or objects mentioned in Article 39(b) and (c) are not subserved by the nationalisation policy codified by the Statute because there is no distribution at all in the sense that the property taken over is distributed to various members of the community for their benefit. Moreover, the members of the community have been deprived of the services rendered to them by the operators under permits issued by the transport authority. So far as this argument is concerned, it is based on a serious misconception of understanding the real position. The word 'distribution' used in Article 39(b) must be broadly construed so that a court may give full and comprehensive effect to the statutory intent contained in Article 39(b). A narrow construction of the word 'distribution' might defeat or frustrate the very object which the Article seeks to subserve. In Black's Law Dictionary the word 'distribution' has been defined thus :

The giving out or division among a number, sharing or parcelling out, allotting, dispensing, apportioning. (p. 426)

90. Similarly, Webster's Third International Dictionary at page 660 defined 'distribution' thus :

the position, placement, or arrangement (as of a mass or the members of a group); the disposition or arrangement of rational groups or classes : CLASSIFICATION - the accurate distribution of several rare zoological specimens; delivery or conveyance (as of newspapers or goods) to the members of a group of company sales and distribution; a device, mechanism, or system by which something is distributed (as from a main source); the marketing or merchandising of commodities.

91. In Family Word Finder published by Readers Digest the word 'distribution' has been defined at page 237 thus :

dissemination, scattering, spreading, circulation, grouping, organisation, apportionment, allotment, allocation, division.

92. It is obvious, therefore, that in view of the vast range of transactions contemplated by the word 'distribution' as mentioned in the dictionaries referred to above, it will not be correct to construe the word 'distribution' in a purely literal sense so as to mean only division of a particular kind or to particular persons. The words, apportionment, allotment, allocation, classification, clearly fall within the broad sweep of the word 'distribution'. So construed, the word 'distribution' as used in Article 39(b) will include various facets, aspects, methods and terminology of a broad-based concept of distribution. In other words, the word 'distribution' does not merely mean that property of one should be taken over and distributed to other like land reforms where the lands from the big landlords are taken away and given to landless labourers or for that matter the various urban and rural ceiling Act. That is only one of the modes of distribution but not the only mode. In the instant case, as we have already pointed out, distribution is undoubtedly there though in a different shape. So far as the operators were concerned they were mainly motivated by making huge profits and were most reluctant to go to villages or places where the passenger traffic is low or the track is difficult. This naturally causes serious inconvenience to the poor members of the community who were denied the facility of visiting the towns or other areas in a transport. By nationalising the transport as also the units the vehicles would be able to go to the farthest corner of the State and penetrate as deep as possible and provide better and quicker and more efficacious facilities. This would undoubtedly be a distribution for the common good of the people and would be clearly covered by clause (b) of Article 39.

93. In the Karnataka case, the word 'distribution' clearly fell for interpretation and Krishan Iyer, J. made the following observations : (SCC p. 515, para 80)

The key word is 'distribute' and the genius of the Article, if we may say so, cannot but be given full play as it fulfills the basic purpose of restructuring the economic order. Each word in the Article has a strategic role and the whole Article is a social mission. It embraces the entire material resources of the community. Its task is to distribute such resources. Its goal is so to under take distribution as best to subserve the common good. It reorganizes by such distribution the ownership and control.

94. Furthermore, in the Sanjeev Coke Manufacturing Co. case ((1983) 1 SCC 147), Chinnappa Reddy, J., observed thus : (SCC p. 169, para 19)

..... To 'distribute', even in its simple dictionary meaning, is to 'allot, to divide into classes or into groups' and 'distribution' embraces 'arrangement, classification, placement, disposition, apportionment, the way in which items, a quantity, or the like, is divided or apportioned; the system of dispersing goods throughout a community'.....

95. The very pertinent expression used by Chinnappa Reddy, J. is that those economists who believe in bringing about a social revolution would hardly find any difficulty in treating nationalisation of transport as a distributive process for the good of the community. This is exactly what the Act seems to achieve in securing the objects contained in Article 39(b) and (c) of the Constitution.

96. By nationalising the transport service the transport business which was run by a handful of capitalists would prevent the concentration of wealth in the hands of a few and would therefore benefit the community at large.

97. This aspect of the matter was also argued in the Karnataka case ((1978) 1 SCR 641 : (1977) 4 SCC 471 : AIR 1978 SC 215) but strongly repelled, where Untwalia, J. pointed out that taking over the transport services was undoubtedly for the common good of the people and was not meant for

augmenting the revenue of the State because the profits, if any, made by the services would go to accomplish projects for the betterment of the community and made the following observation : (SCC p. 480, para 9)

..... The Legislature thought that to prevent such misuse and to provide for better facilities to transport passengers and to the general public it is necessary to acquire the vehicles, permits and all right, titled interest of the contract carriage operators in or over lands, buildings, workshops and other places and all stores, instruments, machinery, tools, plants, etc. as mentioned in sub-section (2) of Section 4 of the Act .....

98. Thus, in short, the position seems to be that by virtue of the nationalisation policy the twin objects of Article 39(b) and (c) are fully secured.

99. Finally, it was argued by the respondents that even if the transport services were nationalised, there was absolutely no rationale behind the taking over of the vehicles of the operators, some of whom were running on hire-purchase basic. This argument has no force because one it is recognised that for the purposed mentioned is Article 39(b) and (c) the entire service including its units, workshops, etc., could be taken over on payment of some compensation, the fact that the vehicles should be spared is only an argument of desperation.

100. These are, therefore, the important contentions advanced before us by the respondents and the reasons given by the High Court in striking down the Act. We are of the opinion that in fact this case is clearly covered by the decision of the Karnataka case ((1978) 1 SCR 641 : (1977) 4 SCC 471 : AIR 1978 SC 215) as reinforced by the later decision of Sanjeev Coke Manufacturing Co. case ((1983) 1 SCC 147) and all the contentions raised before us by the respondents (operators) fail. The Act is, therefore, held to be constitutionally valid in all respects. We allow the appeals, dismiss the writ petitions, set aside the judgment of the High Court and hold that the Act is constitutionally valid.

101. However, as some portions of the Act, in view of the time-lag, may have become out of date, a few consequential amendments may have to be made. Mr. Ray, appearing for the appellants, had also conceded that so far as the question of compensation was concerned, it was open to the arbitrator or the compensation authority not to confine itself strictly to the yardstick contained in the second schedule to the Act but they can make marginal changes as the circumstances require.

102. As the appellants have succeeded in the appeals, we revoke the interim order passed by this Court on June 26, 1973 directing the appellants to pay Rs. 100 (Rupees one hundred) per day to the respondents. In the peculiar circumstances of this case we make no order as to costs.

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