

PROCEEDINGS OF THE 292nd VIRTUAL MEETING OF STATE TRANSPORT AUTHORITY, ODISHA HELD ON 15.09.2020 THROUGH VIDEO CONFERENCING.

MEMBERS PRESENT:

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|----|--|-----|-----|-------------------|
| 1. | Shri Sanjeeb Panda, I.P.S. Transport Commissioner-Cum-Chairman, STA, Odisha, Cuttack. | ... | ... | Chairman. |
| 2. | Shri Soumit Mitra. | ... | ... | Member. |
| 3. | Shri Brajabandhu Bhol, OAS(SAG), Secretary, STA, Odisha, Cuttack. | ... | ... | Member-Secretary. |
| 4. | Sri B. B. Khalko F.A.-cum- Addl. Secretary to Govt., Commerce & Transport (Tr.) Dept., Bhubaneswar. | ... | ... | Member. |

At the outset the Chairman, STA, welcomed all the members of the STA to the 292nd virtual meeting of STA.

The proceeding of the 291th meeting of State Transport Authority held on 19.02.2020 circulated among all the Members vide this office Memo No.3607/TC dated 11.03.2020 is approved as no objections received.

Action taken by the Chairman, STA, Secretary, STA and Under Secretary, STA for the period from 19.02.2020 to 14.09.2020 are approved.

1. POLICY DECISION:

1. 1.1 CANCELLATION OF PERMANENT PERMITS-

In 291st meeting of STA held on 19.02.2020 vide item no. 1.11 (c) it was decided that "for interstate routes after issue of permit, the permit holder will be given ninety days time to get the permit countersigned from Reciprocating State. In case the permit is not countersigned by STA of Reciprocating State on application made by grantee for some reason or other, the grantee will intimate the STA regarding non-grant of countersignature and further action will be taken by STA. In case the grantee failed to get the permit countersigned or to intimate STA the reason for which it was not



countersigned within the period stipulated as mentioned above, the file will be put up for cancellation of permit by STA.”

Due to situation arising out of COVID-19 pandemic in the entire country, interstate stage carriage operators faced difficulties in getting the permits countersigned by the reciprocating States within the stipulated period.

Considering difficulties faced by interstate stage carriage operators, in relaxation of decision taken by STA in 291st STA meeting as above, after due deliberation, it was decided that carriage permits issued by STA on interstate routes which is valid from 01.02.2020 onwards, the permit holder will be given time for the year 2020 up to 31.12.2020 to get the permit countersigned from the reciprocating State.

1.2 GRANT OF SPECIAL PERMITS TO STAGE CARRIAGES.

As per decision taken by STA, in 287th meeting held on 22.01.2019, the Bus Owners having valid permanent stage carriage permit are allowed to avail Special permit up to maximum period of 90 days in a calendar year. The All Odisha Bus Owners Association has requested to grant special permit for more than 90 days to stage carriage permanent permit holders as buses could not operate on given route due to inadequate passengers for COVID 19.

Considering prevailing condition due to COVID-19 pandemic, the Chairman, STA vide order No.7443/TC dated 28.08.2020 allowed grant of special permit for a maximum period of 150 days during the year 2020 upto 31.12.2020.

The STA after due deliberation, in relaxation of earlier decision, resolved that special permits for a maximum period of 150 days during the year 2020 upto 31.12.2020 will be granted to stage carriage permit holders as one time measure. Order No.7443/TC issued by Chairman, STA in this regard is approved.

1.3. DELEGATION OF POWERS TO RTOs TO GRANT SPECIAL PERMITS IN RESPECT OF STAGE/CONTRACT CARRIAGES.

In order to facilitate issue of stage/contract carriage special permits for interstate operation, after due deliberation, it was resolved to delegate power to grant /issue of special permit to contract/stage carriages for interstate operation to RTO & Secretary, RTAs for interstate operation online in Vahan application. The stage/contract carriage

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owners of Odisha can pay the tax, fee, upload passenger list etc and obtain Special Permits under section 88 (8) of M.V.Act,1988 online before commencement of journey to desired destination by visiting to the portal (<https://parivahan.gov.in>) from any place to their convenience by availing online facility. The vehicle owners can download receipts for payment of tax, fee and permit copy and get printout at their place of convenience without visiting STA/RTOs for hassle free movement of vehicles in the State of Odisha and throughout India.It is resolved that henceforth application for special permits shall not be received and processed by STA and RTOs.

1.4 NOTIFICATION OF VACANT ROUTES REGARDING GRANT OF STAGE CARRIAGE PERMANENT PERMITS.

The STA in its meetings held earlier decided that vacant routes will be notified in news paper inviting applications for grant of stage carriage permits. In the meantime due to development made in technology, number of online services is being provided by STA and RTOs for convenience of vehicle owners and other stakeholders.Public are availing various services by visiting online platforms to get desired informationthereby physical visit to STA/RTOs are being reduced day by day.

In order to maximize use of technology by bus owners relating to issue of stage carriage permits, the STA after due deliberation resolved that vacant routes for grant of stage carriage permanent permits will be notified either in newspaper or in website: **orissatransport.gov.in**. The bus owners are required to visit the website regularly to get first-hand information regarding vacant routes and apply for grant of stage carriage permanent in desired vacant routes. One short advertisement will be published in the newspaper for information of bus owners to visit website of STA regularly to get uptodated information regarding vacant routes.

2. CONSIDERATION OF APPLICATIONS FOR STAGE CARRIAGE PERMITS:

INTER STATE ROUTES (CASE MATTER)

2.1 CONSIDERATION OF APPLICATION FOR GRANT OF TEMPORARY PERMIT IN THE NON-AGREED INTERSTATE ROUTE KAIPADAR TO KUKRAHATI AND BACK.

Heard Sri M.B.K.Rao, Advocate on behalf of the applicant Sri Goutam Kumar Sarangi through Video Conferencing. He filed written note which is taken in to record.



He submitted that the present applicant is the owner of vehicle OD-02K-7857. He has applied for grant of temporary permit in the non-agreed interstate route Kaipadar to Kukrahati in respect of his vehicle OD-02K-7857 which is placed before this authority for consideration. The STA West Bengal has sought for concurrence vide its letter dated 10.11.2017 for issuance of temporary permit in the non-agreed interstate route Kaipadar to Kukrahati which was agreed to by STA, Odisha vide its letter dated 8.12.2017 subject inclusion of same in the next reciprocal transport agreement. As STA Odisha concurred into the proposal of STA, West Bengal, temporary permits are issued by STA, Odisha in favour of the applicant from 16.12.2017 to 13.04.2018, from 14.04.2018 to 10.08.2018 and from 23.12.2018 to 20.04.2019 in the non-agreed interstate route Kaipadar to Kukrahati which were countersigned by STA, West Bengal except the temporary permit valid from 23.12.2018 to 20.04.2019. The applicant has applied for grant of further temporary permit before this authority in the aforesaid route which was rejected without any rhyme or reason. The applicant has filed M.V.Appeal No.10 of 2019 before Hon'ble STAT challenging the order of rejection which was allowed and the matter was remitted back to STA for fresh consideration for issuance of temporary permit to the applicant in the aforesaid route. There is no other vehicle operating directly from Kaipadar to Kukrahati for which commuting public are deprived of getting direct bus service from both the places. He prayed that temporary permit as applied for by the applicant may be granted as his vehicle is standing idle and he is sustaining heavy financial loss.

As per records, on the basis of concurrence issued under section 88(7) of MV Act, 1988, Temporary Permits are issued by this authority to the petitioner from 16.12.2017 to 13.04.2018 (119 days), from 14.04.2018 to 10.08.2018 (119 days) and from 23.12.2018 to 20.04.2019 (119 days) in respect of vehicle no. OD02K-7857 in the non-agreed interstate route Kaipadar to Kukrahati.

While the matter stood thus, one Sri Sabyasachi Shee, West Bengal based operator has filed W.P.(C) No.13103 (W) of 2018 before Hon'ble High Court at Calcutta challenging grant of successive temporary permits by STA Odisha to Goutam Kumar Sarangi and countersigned by STA, West Bengal in the above non-agreed interstate route. In the said Writ Petition, STA Odisha was impleaded as one of the respondent/opposite party. Contention of the Sri Sabyasachi Shee-writ petitioner is that whether temporary permit can be granted under section 87 (1) of M.V Act, 1988

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repeatedly with concurrence under section 88(7) of M.V Act, 1988 without following procedure as laid down under Section 88(5) and (6) of said Act. The said writ petition was disposed of on 22.02.2019 and following order was passed.

"The temporary permit in the interstate route could have been granted only in accordance with the provision of Section 88(7) of the said Act. **Without complying with the provision of Section 88(7) read with Section 87(1) of the Motor Vehicles Act it was not open for the STA, Odisha to issue any permit. Moreover, successive grants of temporary permits have been repeatedly deprecated by the Hon'ble Supreme Court.**

Any temporary permit issued in violation of the provision of Section 87 (1) is bad in law. Since the permit was issued in the month of December 2018 and the same is valid till 28th April 2019 no direction is passed in connection with the said permit. **As the permit was issued in violation of the provisions of the Motor Vehicles Act, the question of countersigning the same does not arise at all. The Transport Authority is entitled to issue temporary permit after complying with the provision of Section 87 (1) and 88(7) of the Motor Vehicles Act, and not otherwise".**

Being aggrieved, Sri Sarangi has filed appeal MAT No.390 of 2019, CAN No. 2824 of 2019 before the Hon'ble High Court, Calcutta challenging the order dated 22.02.2019. By interim order dated 01.04.2019, Hon'ble High Court, Calcutta directed that the STA, Odisha will issue temporary permit for a period not exceeding six months from 21.04.2019.

Challenging the aforesaid order dated 01.04.2019 passed by Hon'ble High Court, Calcutta, Sabyasachi Shee filed Civil Appeal No. 4667 of 2019 before Hon'ble Supreme Court which was disposed of on 07.05.2019. Hon'ble Supreme Court has directed that:

" In the facts and circumstances of the case, we set aside the part of the order passed by High Court for future renewals only. That has to be considered on its own merits in case it is applied for by the concerned authority.

The concerned authority shall decide the matter independently without considering any observations made by the Division Bench of High Court or by the learned Single Judge."

Thereafter Sri Sarangi has filed application for grant of further temporary permit in the non-agreed interstate route Kaipadar to Kukrahati which was rejected by

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Chairman, STA dated 27.05.2019. Being aggrieved, Sri Sarangi, has filed M.V Appeal No. 10/2019 before Hon'ble STAT which was disposed of on 12.02.2020. Hon'ble Tribunal observed that while rejecting application for temporary permit filed by the appellant, **ingredient of Section 87 (1) of M.V Act 1988 and the facts available in the application has not been examined and discussed by STA.** Hon'ble Tribunal has remitted back to the STA, Odisha, Cuttack for fresh consideration of the application of the appellant for issuance of T.P in the aforesaid non-agreed interstate route.

Therefore, application for grant of temporary permit in the aforesaid route has been considered by STA in accordance with provisions of statute, facts available and observation made by Hon'ble Supreme Court and STAT.

In his application for temporary permit in Form-XVII under OMV Rules, 1993 filed by Sri Goutam Kumar Sarangi on 15.05.2019, it has been mentioned that:

Col. 4. **Purpose for which permit is required- Interstate Stage Carriage.**

Col.5. Route or routes- Kaipadar to Kukrahati via-Egra, Contai, Nanda Kumar and back.

Col.6. Period of duration of permit from- Date of issue to 119 days.

His application has been examined and considered in accordance of Section 88(7) and section 87 (1) of M.V.Act,1988.

Excerpts of Section 88(7) of M.V.Act,1988 reproduced below for better appreciation.

"88. Validation of permits for use outside region in which granted.— xxxx

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

Excerpts of Section 87(1) of M.V.Act,1988 reproduced below for better appreciation.

87. Temporary permits.—(1) A Regional Transport Authority and the State Transport Authority may without following the procedure laid down in section 80, grant permits, to be effective for a limited period which shall, not in any case exceed four 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

(b) for the purposes of a seasonal business, or

(c) to meet a particular temporary need, or

(d) pending decision on an application for the renewal of a permit,

and may attach to any such permit such condition as it may think fit:

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Section 88(7) of M.V. Act, 1988 deals with grant of concurrence regarding **issue of temporary permit under section 87 (emphasis supplied)** to be valid in another region or State, given generally or for particular occasion.

On conjoint reading of provision contained under section 88(7) of M.V. Act, 1988 it can be safely concluded that while issuing temporary permit with concurrence on non-agreed interstate route ingredients of section 87(1) of said Act are to be satisfied.

Such ingredients are (a) for the conveyance of passengers on special occasions such as to and from fairs and Religious gatherings, **or** (b) for the purposes of a seasonal business, **or** (c) to meet a particular temporary need.

In col.4 of his application, the applicant has not specifically mentioned any one of the occasion as envisaged in section 87 (1) **(a) or (b) or (c)** of the M.V. Act, 1988 which he applied to avail temporary permit to meet that particular requirement. Rather he stated in Col. 4. of his application i.e. "**Purpose for which permit is required- Interstate Stage Carriage**" which do not satisfy the specific occasion for which temporary permit is required to be issued.

Temporary Permit is required to be issued **for a limited period** (emphasis supplied) to meet any one of the requirements of commuters as envisaged under section 87 (1) of M.V. Act, 1988. There is no specific provision under section 87(1) of said Act to the effect that temporary permit would be granted continuously and repeatedly for 119 days as has been applied for by the applicant without complying the provisions laid down under section 88(5) and 88(6) of M.V. Act, 1988.

On the basis of concurrence granted under section 88 (7), three temporary permits have been granted to the applicant for 119 days each in difference spells to the applicant in the non-agreed interstate route Kaipadar to Kukrahati.



Law has been well settled by Hon'ble Supreme Court that temporary permit should not be granted repeatedly.

There is deficiency on the part of the applicant to fulfill the requirement of statute as provided under section 87(1) of M.V.Act,1988 and in the application dated 15.05.2019 filed by him for grant of further successive temporary permit in the non-agreed interstate route Kaipadar to Kukrahati. The STA, keeping view the law said down by Hon'ble Supreme Court that successive temporary permit should not be granted in any route and provision of statute which governs the field, is of the view that it may not be prudent to grant further temporary permit to the applicant in the impugned route.

In view of foregoing discussion, the STA after due deliberation, decided to reject the subsequent application dated 19.02.2020 filed by Sri Goutam Kumar Sarangi, owner of vehicle OD02K-7857 in the non-agreed interstate route Kaipadar to Kukrahati being devoid of merit.

2.2 CONSIDERATION OF APPLICATION FOR GRANT OF TEMPORARY PERMIT IN THE NON-AGREED INTERSTATE ROUTE BERHAMPUR TO BHILAI.

Heard Sri M.B.K.Rao, Advocate on behalf of the applicant S, Reena Prusty through Video Conferencing. He submitted that the present applicant is the owner of vehicle OD32C-3299 & OD32C-3211. She has applied for grant of two temporary permits in the non-agreed interstate route Berhampur to Bhilai in respect of her two vehicles as alternate service which are placed before this authority for consideration. The STA, Odisha considering public need has sought for concurrence vide its letter dated 27.01.2018 for issue of temporary permit in the non-agreed interstate route Berhampur to Bhilai which was agreed to by STA, Chhatisgarh vide its letter dated 30.05.2018 pending inclusion of same in the next reciprocal transport agreement. Thereafter, temporary permits are issued by STA, Odisha in favour of the applicant's vehicles from 27.06.2018 to 23.10.2018, from 24.10.2018 to 19.02.2019 and from 20.02.2019 to 18.06.2019 in the non-agreed interstate route Berhampur to Bhilai which were countersigned by STA, Chhatisgarh. He prayed that temporary permits as applied for by the applicant may be granted as her two vehicles are standing idle and she is sustaining heavy financial loss.



As per records, on the basis of concurrence issued under section 88 (7) of MV Act,1988, three Temporary Permits have been granted to S.Reena Prusty in respect of vehicle no. OD32C-3299 & OD32C-3211 in the non-agreed interstate route Berhampur to Bhilai.

In similar case one Sabyasachi Shee filed Civil Appeal No. 4667 of 2019 before Hon'ble Supreme Court which was challenging which was disposed of on 07.05.2019 in which STA, Odisha was impleaded one of the respondent. Hon'ble Supreme Court has directed that:

“ In the facts and circumstances of the case, we set aside the part of the order passed by High Court for future renewals only. That has to be considered on its own merits in case it is applied for by the concerned authority.

The concerned authority shall decide the matter independently without considering any observations made by the Division Bench of High Court or by the learned Single Judge.”

In her applications for temporary permit in Form-XVII under OMV Rules, 1993 filed by S.Reena Prusty, it has been mentioned that:

Col. 4. Purpose for which permit is required- To meet temporary need on the route in terms of concurrence given u/s 88(7) of M.V.Act,1988.

Col.5. Route or routes- Berhampur to Bhilai via-Raipur , Khariar Road and back.
Col.6. Period of duration of permit from- Date of issue to 119 days.

Her applications have been examined and considered in accordance of Section 88(7) and section 87 (1) of M.V.Act,1988.

Excerpts of Section 88(7) of M.V.Act,1988 reproduced below for better appreciation.

“88. Validation of permits for use outside region in which granted.— xxxx

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

Excerpts of Section 87(1) of M.V.Act,1988 reproduced below for better appreciation.

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

(a) for the conveyance of passengers on special occasions such as to and from fairs and

Religious gatherings, or

(b) for the purposes of a seasonal business, or

(c) to meet a particular temporary need, or

(d) pending decision on an application for the renewal of a permit,

and may attach to any such permit such condition as it may think fit:

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Section 88(7) of M.V.Act,1988 deals with grant of concurrence regarding **issue of temporary permit under section 87 (emphasis supplied)** to be valid in another region or State, given generally or for particular occasion.

On conjoint reading of provision contained under section 88(7) of M.V.Act,1988 it can be safely concluded that while issuing temporary permit with concurrence on non-agreed interstate route ingredients of section 87(1) of said Act are to be satisfied.

Such ingredients are (a) for the conveyance of passengers on special occasions such as to and from fairs and Religious gatherings, **or** (b) for the purposes of a seasonal business, **or**

(c) to meet a particular temporary need.

In col.4 of her applications, the applicant has not specifically mentioned any one of the occasion as envisaged in section 87 (1) **(a) or (b) or (c)** of the M.V. Act,1988 which she applied to avail temporary permit to meet that particular temporary need. Rather she stated in Col. 4. of the application i.e. **“Purpose for which permit is required- To meet temporary need on the route in terms of concurrence given u/s 88(7) of M.V.Act,1988”** which do not satisfy the specific occasion for which temporary permits are required to be issued.

Temporary Permit is required to be issued **for a limited period**(emphasis supplied) to meet any one of the requirements of commuters as envisaged under section 87 (1) of M.V.Act,1988. There is no specific provision under section 87(1) of said Act to the effect that temporary permit would be granted continuously and

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repeatedly for 119 days as has been applied for by the applicant without complying the provisions laid down under section 88(5) and 88(6) of M.V.Act,1988.

On the basis of concurrence granted under section 88 (7), three temporary permits have been granted to the applicant for 119 days each in difference spells to the applicant in the non-agreed interstate route Berhampur to Bhillai.

Law has been well settled by Hon'ble Supreme Court that temporary permit should not be granted repeatedly.

There is deficiency on the part of the applicant to fulfill the requirement of statute as provided under section 87(1) of M.V.Act,1988 and in the applications filed by her for grant of further successive temporary permits in the non-agreed interstate route Berhampur to Bhillai.

The STA, keeping view the law said down by Hon'ble Supreme Court that successive temporary permit should not be granted in any route and provision of statute which governs the field, is of the view that it may not be prudent to grant further temporary permits to the applicant in the impugned route.

In view of foregoing discussion, the STA after due deliberation, decided to reject the two applications filed by S.Reena Prusty, owner of vehicle OD32C-3299 & OD32C-3211 in the non-agreed interstate route Berhampur to Bhillai being devoid of merit.

2.3 CONSIDERATION OF APPLICATION FOR GRANT OF TEMPORARY PERMIT IN THE NON-AGREED INTERSTATE ROUTE BERHAMPUR TO GARIA.

Heard Sri M.B.K.Rao, Advocate on behalf of the applicant S, Reena Prusty through Video Conferencing. He submitted that the present applicant is the owner of vehicle OD07Z-3211 & OD07Z-3299. She has applied for grant of two temporary permits in the non-agreed interstate route Berhampur to Garia (Kolkata) in respect of her two vehicles as alternate service which are placed before this authority for consideration. The STA, Odisha considering public need has sought for concurrence vide its letter dated 12.01.2018 for issue of temporary permit in the non-agreed interstate route Berhampur to Garia (Kolkata) which was agreed to by STA, West Bengal vide its letter dated 13.06.2018 pending inclusion of same in the next reciprocal transport agreement. He prayed that temporary permits as applied for by the applicant may be granted as her two vehicles are standing idle and he is sustaining heavy financial loss.

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In similar case one Sabyasachi Shee filed Civil Appeal No. 4667 of 2019 before Hon'ble Supreme Court which was challenging which was disposed of on 07.05.2019 in which STA, Odisha was impleaded one of the respondent. Hon'ble Supreme Court has directed that:

"In the facts and circumstances of the case, we set aside the part of the order passed by High Court for future renewals only. That has to be considered on its own merits in case it is applied for by the concerned authority.

The concerned authority shall decide the matter independently without considering any observations made by the Division Bench of High Court or by the learned Single Judge."

In her applications for temporary permit in Form-XVII under OMV Rules, 1993 filed by S.Reena Prusty, it has been mentioned that:

Col. 4. **Purpose for which permit is required- To meet temporary need on the route in terms of concurrence given u/s 88(7) of M.V.Act,1988.**

Col.5. Route or routes- Berhampur to Bhilai via-Raipur , Khariar Road and back.

Col.6. Period of duration of permit from- Date of issue to 119 days.

Her applications have been examined and considered in accordance of Section 88(7) and section 87 (1) of M.V.Act,1988.

Excerpts of Section 88(7) of M.V.Act,1988 reproduced below for better appreciation.

"88. Validation of permits for use outside region in which granted.— xxxx

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

Excerpts of Section 87(1) of M.V.Act,1988 reproduced below for better appreciation.

87. Temporary permits.—(1) A Regional Transport Authority and the State Transport Authority may without following the procedure laid down in section 80, grant permits, to be effective for a limited period which shall, not in any case exceed four 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

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(c) to meet a particular temporary need, or

(d) pending decision on an application for the renewal of a permit,

and may attach to any such permit such condition as it may think fit:

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Section 88(7) of MVAAct, 1988 deals with grant of concurrence regarding **issue of temporary permit under section 87 (emphasis supplied)** to be valid in another region or State, given generally or for particular occasion.

On conjoint reading of provision contained under section 88(7) of M.V. Act, 1988 it can be safely concluded that while issuing temporary permit with concurrence on non-agreed interstate route ingredients of section 87(1) of said Act are to be satisfied.

Such ingredients are (a) for the conveyance of passengers on special occasions such as to and from fairs and Religious gatherings, **or** (b) for the purposes of a seasonal business, **or** (c) to meet a particular temporary need.

In col.4 of her applications, the applicant has not specifically mentioned any one of the occasion as envisaged in section 87 (1) **(a) or (b) or (c)** of the M.V. Act, 1988 which she applied to avail temporary permit to meet that particular temporary need. Rather she stated in Col. 4. of the application i.e. **"Purpose for which permit is required- To meet temporary need on the route in terms of concurrence given u/s 88(7) of M.V. Act, 1988"** which do not satisfy the specific occasion for which temporary permits are required to be issued.

Temporary Permit is required to be issued **for a limited period**(emphasis supplied) to meet any one of the requirements of commuters as envisaged under section 87 (1) of M.V. Act, 1988. There is no specific provision under section 87(1) of said Act to the effect that temporary permit would be granted continuously and repeatedly for 119 days as has been applied for by the applicant without complying the provisions laid down under section 88(5) and 88(6) of M.V. Act, 1988.

Law has been well settled by Hon'ble Supreme Court that temporary permit should not be granted repeatedly.

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There is deficiency on the part of the applicant to fulfill the requirement of statute as provided under section 87(1) of M.V.Act,1988 and in the applications filed by her for grant of further successive temporary permits in the non-agreed interstate route Berhampur to Garia.

The STA, keeping view the law said down by Hon'ble Supreme Court that successive temporary permit should not be granted in any route and provision of statute which governs the field, is of the view that it may not be prudent to grant further temporary permits to the applicant in the impugned route.

In view of foregoing discussion, the STA after due deliberation, decided to reject the two applications filed by S.Reena Prusty, owner of vehicle OD07Z-3211 & No.OD07Z-3299 in the non-agreed interstate route Berhampur to Garia being devoid of merit.

2.4 CANCELLATION OF PERMANENT PERMIT NO.30-R/16 IN THE INTERSTATE ROUTE PURI TO KOLKATA VIA-JAMSOLA & BACK AND CONSIDERATION OF APPLICATION FOR REPLACEMENT OF VEHICLE NO. OR05AJ-0629 BY OD05AW-0629.

Heard Sri M.B.K.Rao, Advocate on behalf of the applicant Smt Sushama Sahoo through Video Conferencing. He submitted that Permanent permit No.30-R/16 has been issued by STA to Smt. Sushama Sahoo in respect of vehicle OR05AJ-0629 to operate in the interstate route Puri to Kolkata via- Jamsola which is valid till 20.07.2021 as Deluxe service and countersigned by STA, West Bengal vide C/S No.50(OR)/2016.

In the show cause, the permit holder stated that she has applied for replacement of vehicle No.OR05AJ-0629 by another vehicle OD05AW-0629 VOLVO bus on 21.03.2020 in existing permanent permit No.30R 2016 held by her. It is not fair to ask the permit holder to file show cause as to why her permit shall not be cancelled and hearing the matter by STA on 15.09.2020. The petitioner is in dark on the ground on which her permanent permit proposed to be cancelled which is against the principle of natural justice. There is no valid reason assigned in the notice dated 09.09.2020 for proposed cancellation of permanent permit. The permit holder has not committed any act enumerated under section 86 of M.V.Act,1988 for which she is to be penalized with extreme step of cancellation of permanent permit. Her bus OR05AJ-0629 met with an accident on 09/10-05.2018 and in this regard Station Diary Entry No.11 dated 10.05.2018 was made at Basta Police Station. The vehicle was garaged from



11.05.2018 to 01.12.2019 and was kept under off road from 01.06.2018 to 30.11.2019. There was delay in carrying out repair work by the garage. After repair she started operating the vehicle OR05AJ-0629 since December, 2019. In support of her submission he enclosed FASTAG Receipts and Toll Plaza receipts since December, 2019. Non-operation of bus in the route Puri-Kolkata is not intentional inasmuch as the vehicle was met with an accident and was garaged for repair and it was declared off road. Fact of off road was intimated to STA Odisha on 20/30.12.2019 released on 5.12.2019 as per report of RTO, Cuttack and in turn a letter was issued 30.12.2019 to STA, West Bengal in this regard. There are large number of buses operating from Puri to Kolkata on daily basis and non-operation of petitioner's bus for the garaged period no inconvenience caused to commuting public and no public complaint was received for such non-operation. Proposed cancellation of permit will be contrary to the spirit of order passed by Hon'ble High Court in W.P.(C) No. 9095 of 2020. The petitioner cannot be divested /dispossessed of her PP which is in the nature of "Property" only. Government of India, MoRTH has issued successive Circulars/notifications extending validity of documents including all types of permits till 31.12.2020 keeping in view COVID-19 pandemic. Issuance of notice dated 09.09.2020 for proposed cancellation of PP is unfair. The petitioner is willing to compound any offence committed unintentionally committed by her in lieu of proposed cancellation of PP in terms of section 86 (5) of M.V.Act,1988. He prayed to drop the cancellation proceeding initiated against the petitioner on such terms as this authority deem just and proper.

As per records, permanent permit was originally granted to Prakash Ch. Sahoo in respect of vehicle OR05AJ-0629 and subsequently transferred to Susana Sahoo w.e.f. 15.10.2015. The exiting vehicle OR05AJ-0629 was declared off-road from 01.06.2018 to 30.11.2019 and released from off road on 05.12.2019 on payment of tax for December, 2019 as per report of RTO, Cuttack.

The applicant admitted that her bus was met with an accident on 10.05.2018 and did not operate till 05.12.2019 i.e. more than one and half years causing inconvenience to travelling public. The permit holder also did not intimate the STA about non-operation of bus from 10.05.2018 till 20.12.2019 as required under rule 75 (3) of OMV Rules, 1993.

The permit holder is no way concerned about plying of large number of buses from Puri to Kolkata on daily basis and according to her no inconvenience caused to

commuting public on that route. Under the statute, it is the STA to look after the convenience of travelling public commuting from Puri to Kolkata for which permits are granted to number of buses to operate from Puri to Kolkata including the permit granted to petitioner considering volume of traffic in the said route. Non-plying of bus by the petitioner for more than one and half years is bound to cause inconvenience to travelling public. The commuting public had suffered a lot due to non-operation of bus by the petitioner from 10.05.2018 to 05.12.2019. For such deficiency in providing serviced to public by the petitioner, her conduct as stage carriage operator found to be not satisfactory.

Order passed by Hon'ble High Court in W.P.(C) No. 9095 of 2020 relied upon by the petitioner is on different context and not applicable to her case as discontinuance of service was occurred from 10.05.2018 to 05.12.2019 which much prior to COVID-19 pandemic situation. As regards contention of the petitioner that "permit" is ~~the~~ her property which is not tenable as such contention is not supported by any of the provisions of M.V. Act, 1988. Regarding extension of period of validity of permit as notified by MORTH, Government of India due to COVID-19 situation is applicable to cases where permit was lapsed from 01.02.2020 and thereafter. Since the present permit of the petitioner is valid till 20.07.2021, contention made in this regard is not acceptable.

The S.T.A. to the 264th S.T.A. meeting held on 30.01.2012 resolved the following.

ITEM NO - 3 POLICY DECISIONS:

- a) xxxx
- b) It is noticed that after obtaining permanent / temporary permit, holder of permits declaring the vehicles off road for months together, not operating in the given route which frustrates very purpose of grant of permit and thereby causing inconvenience to the traveling public. Keeping in view the interest of commuting public, after due deliberation it was resolved that, if a vehicle is continuously declared off-road for more than six months, it will be presumed that either the vehicle is so badly damaged that it cannot be repaired or the operator does not have adequate financial resources to get

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the vehicle repaired. In such a cases, if the vehicle is covered under permit and the vehicle covered in it is declared off-road for more than three months and less than six months, the route will be notified. If the vehicle is operating under Permanent Permit and declared off road for more than six months it will be deemed that his performance as a stage carriage operator is not satisfactory. In such event, the P.P. so granted is to be suspended / cancelled following procedure laid down under section 86 of M.V. Act,1988.

The permit holder did not operate her vehicle from 10.05.2018 to 05.12.2019 i.e. more than one and half years without intimating the fact of non-operation of her vehicle to STA violating permit conditions for which the permit is liable to be cancelled under Section 86 (1) (a) of M.V. Act, 1988.

The members of STA, after due deliberation, are of the view that the permit holder has failed to operate the bus in the given route for more than one and half years and thereby violated permit condition. Decision of STA to cancel the permit due to non-operation is squarely applicable to the present case.

Considering the facts and circumstances of the case, provisions of law and decision taken by STA in 264th meeting, in exercise of powers under Section 86 (1) (a) of M.V. Act, 1988, it was resolved to cancel the permanent permit No.30-R/2016 issued to Susama Sahoo, owner of vehicle OR05AJ-0629 in the route Puri to Kolkata for violating permit conditions. Consequent upon cancellation of permit, application for replacement of vehicle is rejected. It was resolved that the route be notified in website of STA inviting applications for grant of permanent permit from deserving stage carriage operator.

INTER-REGION ROUTES (CASE MATTER)

2.5 CANCELLATION OF PERMANENT PERMIT NO.431-R/2017 ISSUED TO VEHICLE NO.OD22A-2225 IN THE INTER-REGION ROUTE KAPTIPADA TO BHUBANESWAR AND BACK.

Heard Sri H.P. Mohanty, Advocate on behalf of the applicant Smt. Hiranmayee Kar through Video Conferencing. He has filed reply to notice for cancellation of permanent permit No.431-R/2017 issued to Hiranmayee Kar in respect of vehicle OD22A-2225 in the route Kaptipada to Bhubaneswar which is taken into record. He



submitted that the petitioner has filed joint petition under section 82 of M.V.Act,1988 and rule 91 of OMV Rules,1993 for transfer of above permit in favour of Quazi Md.Firoz Ahmad as she is suffering from cancer. The transferee has rendered financial support in her bad days for her treatment. Since she is unable to manage the day to day affairs of the service, the transferee is looking after the service. Therefore, the transferor desired to transfer the permanent permit in his name. After hearing the parties, Chairman, STA vide order dated 02.07.2020 rejected the application for transfer of permit and directed to surrender the permanent permit within fifteen days, to file show cause as to why aforesaid permit shall not be cancelled. It was directed that the matter be placed in the next STA meeting for decision regarding cancellation of permanent permit. No show cause notice was issued by STA to permit holder as per order passed by Chairman, STA. Further direction of learned Chairman, to surrender the permanent permit of the petitioner for its cancellation is illegal, arbitrary and without authority. Cancellation of permit under section 86 of M.V.Act has no relevance with section 82 which deals with transfer of permit. The petitioner has not breached any of the condition specified in section 86 (1) (a) to (e) of M.V.Act,1988. The transferee was only looking after the service like Manager and the petitioner has never handed over the vehicle or permit to the transferee and at present the petitioner and her husband are managing the service. He prayed that the proceeding for cancellation of her permanent permit be dropped.

Pursuant to order dated 02.07.2020 passed by Chairman, STA, notice No.7036 dated 18.08.2020 was issued to the permit holder and Sri M.B.K.Rao, Advocate has filed show cause on 31.08.2020 on her behalf.

Considering the submission made by the learned counsel for the petitioner, after due deliberation, it was resolved to close the present proceeding for cancellation of permanent permit issued to Smt. Hiranmayee Kar.

2.6 CANCELLATION OF PERMANENT PERMIT NO.480-R/2016 ISSUED TO VEHICLE NO.OR22E-1398 IN THE INTER-REGION ROUTE BHADRAK TO CUTTACK VIA. PANIKOILI, CHANDIKHOLE AND BACK.

Heard Sri H.P. Mohanty, Advocate on behalf of the applicant Sudhansu Panigrahi, owner of vehicle OR22E-1398 through Video Conferencing. He submitted that the petitioner has filed joint petition under section 82 of M.V.Act,1988 and rule 91 of OMV Rules,1993 for transfer of permanent permit No.480-R/2016 in favour of Saikh Boddy. His another bus is operating from Chandabali to Kolkata. Due to pre-occupation,



ailment of his wife and engagement of his son in other business, he is not able to look after day today affairs of transport business. The proposed transferee is the manager of bus OR22E-1398 and managing the service. Since he is unable to manage the day to day affairs of the service, the transferee is looking after the service. Therefore, the transferor desired to transfer the permanent permit in his name. After hearing the parties, Chairman, STA vide order dated 02.07.2020 rejected the application for transfer of permit and directed to surrender the permanent permit within fifteen days, to file show cause as to why aforesaid permit shall not be cancelled. It was directed that the matter be placed in the next STA meeting for decision regarding cancellation of permanent permit. No show cause notice was issued by STA to permit holder as per order passed by Chairman, STA. Further direction of learned Chairman, to surrender the permanent permit of the petitioner for its cancellation is illegal, arbitrary and without authority. Cancellation of permit under section 86 of M.V.Act has no relevance with section 82 which deals with transfer of permit. The petitioner has not breached any of the condition specified in section 86 (1) (a) to (e) of M.V.Act,1988. The transferee was only looking after the service like Manager and the petitioner has never handed over the vehicle or permit to the transferee and at present the petitioner managing the service. Being aggrieved, Sri Panigrahi has filed M.V. Appeal No.08/2020 before Hon'ble STAT and by judgment dated 14.09.2020 Hon'ble Tribunal has upheld the order passed by the Chairman, STA regarding cancelation of permanent permit and quashed the part of order regarding direction to surrender the permanent permit. Hon'ble Tribunal has not restrained this authority to take up the matter regarding cancellation permit. Learned Advocate for the permit holder prayed that the proceeding for cancellation of her permanent permit be dropped.

Considering the submission made by the learned counsel for the petitioner, after due deliberation, it was resolved to close the present proceeding for cancellation of permanent permit issued to SudhansuPanigrahi.

2.7 CONSIDERATION OF APPLICATION FOR GRANT OF TEMPORARY PERMIT IN THE INTER REGION ROUTE KAMALADIHA TO CUTTACK & BACK.

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Heard Sri M.B.K. Rao, Advocate for Santosh Kumar Sahoo, owner of vehicle OR05P-5148. Sri Sabyasachi Mishra, Advocate on behalf of Sri Ashok Kumar Samantray, owner of vehicle No.OR05AG-5955 through Video Conferencing.

Learned Advocate Sri M. B. K. Rao submitted that Santosh Kumar Sahoo was operating his bus OR05P-5148 in the route Kamaladiha to Cuttack by virtue of permanent permit granted to him against rationalized time slot No.76 from Narsinghpur in up trip and slot No.106 in down trip with Cuttack departure timing at 15.48 hours. The said P.P. No.SC/PP/05/94/13 was valid till 11.11.2018 and he has applied for renewal of permanent permit on 11.12.2019 i.e. after more than one year of expiry of permit. Learned Secretary, STA vide order dated 20.01.2020 had rejected the renewal application of the applicant on the ground that as it was not filed within the prescribed period as provided under Section 81 (2) of M.V. Act, 1988. It was ordered to notify the route for grant of permanent permit to deserving bus operator. The applicant Sri Sahoo has challenged the order dated 20.01.2020 passed by Secretary, STA before Hon'ble STAT in M.V. Appeal No.03/2020 which was disposed of on 06.03.2020. While allowing the appeal Hon'ble Tribunal remitted back the matter to STA to consider afresh the application of the appellant for renewal of permanent permit. As the route and timing was shown vacant in the website of STA and in the Samaj dated 29.02.2020, Sri Ashok Kumar Samantaray, owner of vehicle OR05AG-5955, Model - 2009 has applied for grant of temporary permit in the route operated by Santosh Kumar Sahoo which was placed in the permit committee meeting of STA held on 17.03.2020 vide item No.280. That unless fate of the applicant Santosh Kumar Sahoo regarding renewal of P.P. was reconsider as per direction of Hon'ble Tribunal, the timing slot cannot be treated as vacant to be allotted to any other bus operator. The applicant undertakes to replace his bus OR05P-5148 with a better model bus within six months of renewal of permanent permit.

The Members of STA have gone through the contents of order dated 20.01.2020 passed by Secretary, STA, judgment of Hon'ble STAT and submission made by learned Advocate for Sri Santosh Kumar Sahoo. The order dated 20.01.2020 passed by learned Secretary, STA suffers no infirmity which is approved. In similar case, Hon'ble STAT had upheld decision taken by STA refusing renewal of permit in M.V. Appeal No.18 of

2014, where application for renewal was made after expiry of permit. Besides the vehicle OR05P-5148 is of 2002 model and by now 18 years old. Issue of permanent permit to said vehicle would be detrimental to the interest of public. The travelling public are deprived of getting bus service from Kamaladiha to Cuttack due to non-operation of bus service by the petitioner Santosh Kumar Sahoo from 12.11.2018 till date i.e. more than one year and nine months.

Considering facts and circumstances of the case, observation made by Hon'ble STAT in M.V. Appeal No.18/2014 vis-à-vis safety and convenience of travelling public with regard to model of vehicle offered by the applicant Santosh Kumar Sahoo, after due deliberation, it was resolved to reject the application filed by Santosh Kumar Sahoo for renewal of permanent permit issued to him which was valid till 11.11.2018.

Considered the submission made by Advocate Sri S. Mishra for Ashok Kumar Samantaray. He prayed that temporary permit may be granted to him in respect of vacant slot No.75 (08.50 dep. from Narsinghpur side) and slot No.106 (15.48 dep. from Cuttack) of rationalized timing.

In the resultant vacancy two applications have been filed by B. R. Behera, owner of vehicle OD05AQ-4249 and Ashok Kumar Samantaray, owner of vehicle OR05AG-5955. Sri B. R. Behera has filed representation through Sri P.K. Behera, Advocate seeking change of slot i.e. slot No.38 and slot no.103. Since Sri Behera has applied for change of slot, his application cannot be considered against the vacant slot No.75 and slot No.106. His applicant is rejected.

Sri Ashok Kumar Samantaray, owner of vehicle OR05AG-5955 is the sole applicant who has filed application for grant of temporary permit in the route Kamaladiha to Cuttack against slot No.75 and slot No.106 of rationalized timing.

The STA after due deliberation, resolved to grant temporary permit for 119 days in favour of Sri Ashok Kumar Samantaray, owner of vehicle OR05AG-5955 in the route Kamaladiha to Cuttack against vacant slot No.75 (Narsinghpur dep. 08.50) and slot No.106 (Cuttack dep. 15.48) in the interest of travelling public.



2.8 CONSIDERATION OF APPLICATION FOR GRANT OF TEMPORARY PERMIT IN THE INTER REGION ROUTE PURI TO BHUBANESWAR AND BACK

Heard Sri M.B.K. Rao, Advocate for Arup Kumar Prusty, owner of vehicle OD13F-0504, Sri Sabyasachi Mishra, Advocate for Manjulata Rout, owner of vehicle OD05AV-5377 and Sri H.P. Mohanty, Advocate for Sri Ashok Kumar Parida, owner of vehicle OD02BH-7084 through Video Conferencing.

Advocate Sri Rao submitted that the applicant has applied for grant of temporary permit in the route Puri to Bhubaneswar with Puri departure timing at 07.22 hrs. (slot No.44), Bhubaneswar departure timing at 10.37 hrs. (slot No.124), Puri departure timing at 15.17 hrs. (slot No.228) and Bhubaneswar departure at 17.52 hrs. (slot No.278). In the notified timing dated 14.02.2020, the slots are 54 (B), 124 (B), 228 (B) and 278 (B) respectively. Though the applicant was meritorious amongst all the contesting applicants, he was not granted with temporary permit, he has filed M.V. Appeal No.01/2020 before Hon'ble STAT which is pending for final adjudication as on date. By an interim order dated 07.01.2020 Hon'ble Tribunal directed not to make any further publication, inviting intending operators in the route from Puri to Bhubaneswar via Kalpana, Rasulgarh and back against vacant slots No.48, 124, 228 and 278 till 13.01.2020. Despite interim order timings were published on 14.02.2020 allowing present opp. Parties to apply for allotment of timing slots which was objected to by him on 17.03.2020 and before the permit committee meeting. He prayed that the matter be deferred till disposal of M.V. Appeal No.01/2020.

Sri S. Mishra, Advocate for Manjulata Rout submitted that the applicant Manjulata Rout has applied for grant of temporary permit slot No.13, slot No.72, slot No.124 and slot No.291 in the route Puri to Bhubaneswar (one RT) and Puri to Cuttack (one RT). He prayed that temporary permit with respective time slots may be granted to Manjulata Rout.

Sri H.P. Mohanty, Advocate appearing for Sri Ashok Kumar Parida, owner of the vehicle No.OD02BH-7084 submitted that has applied for grant of Temporary Permit on the route from Puri to Bhubaneswar & back two R.T with Puri dep. 7.22 & 15.17 (vacant slot no.54 & 228) and Bhubaneswar dep. 10.37 & 17.52 (vacant slot no.124 & 278) which was placed in the Committee meeting held on 17.03.2020 item no.332. He

prayed that temporary permit may be granted to applicant Sri A.K. Parida in respect of vehicle OD02BH-7084.

Admittedly there was no stay order granted by Hon'ble STAT in M.V. Appeal No.01/2020 filed by Arup Kumar Prusty beyond 13.01.2020. The vacant time slots are published in the website on 14.02.2020 inviting applications for grant of temporary permit in the route Puri to Bhubaneswar and back. Pursuant to notification of vacant slots, two applications are received from Manjulata Rout and A.K. Parida which are to be considered along with the application of Sri A.K. Prusty on merit.

The applicant – Manjulata Rout has applied for one of the slot i.e. slot no.124 out of the four notified slots. If slot no.124 is allotted to her, it may not be feasible on the part of any operator to make three trips in a day. In such view of the matter, the application for temporary permit cannot be considered by inclusion of slot no.124. She may, if so likes, apply for any vacant slot in lieu of slot no.124.

Amongst the applicant Arup Kumar Prusty, owner of vehicle OD13F-0504 (model – 2016) and Sri A.K. Parida, owner of vehicle OD02BH-7084 (model-2019), the vehicle offered by Ashok Kumar Parida is of higher model than that of Arup Kumar Prusty.

Considering relative merits of both the applicants, the STA resolved to grant temporary permit 119 days in favour of Ashok Kumar Parida, owner of vehicle OD02BH-7084 in the route Bhubaneswar to Puri and back against vacant slot No.54 (B), slot No.124 (B), slot No.228 (B) and slot No.278 (B) of rationalized timing in the interest of travelling public. The application filed by Arup Kumar Prusty is rejected.

2.9 CONSIDERATION OF APPLICATION FOR GRANT OF TEMPORARY PERMIT IN THE INTER REGION ROUTE KHRUDA TO BHOLAGADIA VIA CUTTACK, BHADRAK, SORO & BACK.

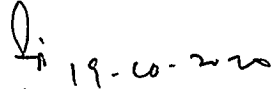
Temporary permit was granted from 03.02.2018 to 01.06.2018 in favour of Pranati Nalini Samantra, owner of vehicle OD02AS-0779 in the route Khurda to Bholagadia via Cuttack, Bhadrak, Soro and back. On 20.03.2019 her application for further temporary permit was rejected as the route applied for by the applicant was under rationalization of timing. The applicant preferred M.V. Appeal No.08/2019 before Hon'ble STAT which was dismissed.

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Being aggrieved the application has filed W.P. (C) No.7991/2020 before Hon'ble High Court which was disposed of on 04.03.2020. Hon'ble Court has directed that the representation of the petitioner be worked out keeping in view the development made.

As direction by Hon'ble High Court representation of the petitioner has been duly considered by STA. The timing of stage carriages operating in the route Bhubaneswar to Baripada via Cuttack / Balasore / Bhadrakhas been rationalized and final rationalized timing implemented. The route and timing applied for by the applicant covers major portion of rationalized route.

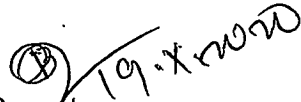
The STA after due deliberation, resolved to reject the application for temporary permit filed by the applicant as no vacant timing slots available for issuance of permit to her in the applied route.


Chairman
STA, Odisha, Cuttack.

Memo No. 90/2/TC.

Copy to all members of STA for information.

Dt. 19-10-20


Secretary,
STA, Odisha, Cuttack.