

1988 August 31

[A. LOIZOU P.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ELENI GEORGHIOU,

Applicant.

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE PERMITS REVIEW AUTHORITY,

Respondent.

(Case No. 80/87).

Motor Transport—The Motor Transport Regulation Law, 9/82, section 5(11) 5
(d)—Revocation of a road use licence.

Motor Transport—The Motor Transport Regulation Law 9/82, section 6(1)—A
licence refers to the vehicle and can be transferred with it as provided by
s.6(1)—The terms and conditions of the licence are carried with it.

Reasoning of an administrative act—It may be supplemented by the material in 10
the file.

Applicant's rural taxi was, contrary to the conditions of the relevant licence, neither stationed nor circulating at Platanistassa village. As a result the Permits Authority revoked the licence. The Permits Review Authority dismissed applicant's hierarchical recourse. Hence this recourse. 15

Held, dismissing the recourse: (1) The reasoning of an administrative act may be supplemented, as indeed it is, in this case, from the material in the file.

(2) The power to revoke the said licence is regulated by para. (d) of section 5(11). 20

(3) A road use licence refers to the vehicle in respect of which it is

5 granted and can be transferred with the vehicle by its owner either during his lifetime or on account of death as provided by section 6(1) of the Law and, therefore, the purchase of the vehicle by the applicant with its licence carried with it also the terms and conditions of such licence and imposed on her the obligation to comply with them.

*Recourse dismissed.
No order as to costs.*

Recourse.

10 Recourse against the dismissal of the hierarchical recourse of the applicant against the decision of the Licensing Authority revoking applicant's road use licence of her rural taxi under Reg. No. TSN. 626.

15 *S. Karapatakis*, for the applicant.

M. Tsiappa (Mrs.), for the respondent.

Cur. adv. vult.

20 A. LOIZOU P. read the following judgment. By the present recourse the applicant seeks a declaration of the Court that the act and/or decision of the respondent Permits Review Authority by which the road use licence of the rural taxi of the applicant under Registration No. TNS 626 was revoked, and or that the dismissal of the hierarchical recourse against the decision of the Licensing Authority by which it revoked the road use licence of her said rural taxi, is null and void and with no legal effect whatsoever.

30 The applicant was the registered owner of the aforesaid vehicle which was licensed as a rural taxi to be stationed at Platanistassa village (Appendix "1"). By letter dated the 17th September 1983 (Appendix "2"), the Licensing Authority was informed by the Department of Inland Transport that the said licensed rural taxi was neither stationed nor was it circulating at Platanistassa village.

The applicant was then invited by the Licensing Authority by

letter dated the 25th May 1984 (Appendix "3") to attend a meeting of the Authority for the examination of the matter of circulation of her said rural taxi. At that meeting which was attended by the applicant's husband, the Licensing Authority decided after taking into account everything said on her behalf, to invite again the applicant to attend in person its meeting (Appendix "4") and a letter dated the 22nd June 1984 was sent to that effect to the Applicant (Appendix "5").

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Following this, the applicant sought by application dated the 28th June 1984 (Appendix "6") the grant of an urban taxi licence in relation to her said vehicle.

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At their meeting of the 10th July 1984 (Appendix "7"), the Licensing Authority after hearing the Applicant and her husband and taking into account all relevant material, they warned her as to the necessity of keeping her taxi stationed at Platanistassa for serving the village. They further warned her that they would take all necessary steps against her if she failed to do so within 15 days.

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After the lapse of the said period the Licensing Authority decided at their meeting of the 10th July, 1984 (Appendix "8"), in the light of information that the relevant taxi was still not stationed and circulating at Platanistassa village, and after taking into account all relevant facts, circumstances and material, to revoke the taxi's licence. The said decision of the Licensing Authority was communicated to the applicant by letter dated the 8th August 1984 (Appendix "9"). The applicant lodged against this decision (Appendix "10") an hierarchical recourse to the Respondent Authority.

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The applicant's hierarchical recourse was heard by the respondent Authority at their meeting of the 11th October 1986 (Appendix "11") in which the applicant, her Counsel and her husband were present. The Respondent Authority then decided after taking into account all relevant facts, circumstances and material, to confirm the Licensing Authority's decision. Their decision (Appendix "12") reads as follows:

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5 "The Permits Review Authority having in mind the legislation in force and all the real facts of the case that have been placed before it and having studied all the factors from the relevant files and everything that has been said on behalf of the applicant, has decided to dismiss her recourse as it has been persuaded that the applicant uses her vehicle under Registration No. NS 626 contrary to Law".

10 Same was communicated to the applicant by letters dated the 11th December 1986 and the 20th December 1986 (Appendices "13" and "14") and against it the Applicant filed the present Recourse on the 9th February 1987.

15 It is the case for the applicant that the sub judge decision lacks due reasoning contrary to the general principles of administrative law that require that decisions taken by collective organs adverse to the citizens should be duly and sufficiently reasoned.

20 Without disagreeing with the principle, I find that on the facts of the case same has not been violated by the respondent authority in the present case. The sub judge decision contains all necessary elements and is duly supplemented, as a decision of this nature can be, by the material in the file. In that respect one cannot ignore that the respondent authority had before it the relevant file with all evidence and other information that established to its satisfaction the fact that the applicant in violation of the Law and the condition imposed on the road use licence of the said vehicle were
25 breached.

The sub judge decision was reached in the exercise of the statutory powers given to the respondent authority by s: 4 (A) of the Motor Transport Regulation Laws 1982 - 1984 (Laws No. 9 of 1982 and 84 of 1984, hereinafter to be referred to as the Laws.)

30 The revocation of the said licence was made on the strength of the provisions of s. 5 (11) of the Laws which provides that the road use licence may be revoked by the Licensing Authority for anyone of the reasons set out therein. Paragraph (d) thereof pro-

vides that whenever its holder omits to carry out the road use for which it was granted for a period of two months unless he had secured the approval of the Licensing Authority for such omission.

Needless to say that the Licensing Authority had granted the road use licence to the said vehicle under the provisions of s. 5(3) and 9 of the laws. In doing so it had taken into consideration the extent of the needs of the rural community intended to be served thereby. The very definition of a rural taxi contained in s. 9(1) of the Law and by which it is provided that the rural taxi must have its seat and area or parking station outside an urban traffic area shows the purpose for which such licences are granted. 5
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The complaint of the applicant that the respondent authority acted contrary to Law in as much as it failed to comply with the proviso of sub section 11 of the Laws which provides that a road use licence shall be revoked for the grounds referred to in paragraphs (b) and (c) of sub section 11 of the Law only when such licence had previously been suspended by virtue of the provisions of sub section 12 of the Law, cannot stand as the revocation in the present case was made on the basis of para. (d) of sub section 11 of section 5 of the Law to which I have already referred. 15
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It may also be pointed out that the road use licence of the vehicle in question was granted for the service of the transport needs of the village of Platanistassa and on the very licence there was recorded its seat and parking station. Also the obligation of the vehicle created by para. 15 of the Transport Regulation, Regulations 1964 - 1986 that "Outside the hours during which it offers services it will remain during the whole 24hour-period in its village for the purpose of rendering services at any moment and be parked at its seat", was inserted as part of the conditions of its licence. 25
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Moreover a road use licence refers to the vehicle in respect of which it is granted and can be transferred with the vehicle by its owner either during his lifetime or on account of death as provided by section 6(1) of the Law and, therefore, the purchase of the 35

vehicle by the applicant with its licence carried with it also the terms and conditions of such licence and imposed on her the obligation to comply with them.

5 The contention therefore of the applicant that she was under the impression that the vehicle could also be used as an urban taxi cannot stand there being no need under the Law for her to have applied herself for the original road use licence of the vehicle.

10 The facts of the case were clearly and unequivocally established and it was an undisputed fact that the vehicle in question was used by the applicant in violation of the conditions of its road use licence and the relevant provisions of the Law to which reference has been made.

15 Therefore the sub-judice decision was validly taken by the respondent authority and for all the above reasons the recourse is dismissed. The sub judice decision is confirmed, but in the circumstances there will be no order as to costs.

Recourse dismissed.

No order as to costs.