

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION
CYPRUS TRANSPORT CO. LTD. AND ANOTHER (No. 1),

Applicants,

and

THE REPUBLIC OF CYPRUS, THROUGH

1. THE MINISTER OF COMMUNICATIONS AND WORKS
2. THE PERMITS AUTHORITY,

Respondents.

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CYPRUS
TRANSPORT
CO. LTD.
AND ANOTHER
(No. 1)
v.
REPUBLIC
(MINISTER OF
COMMUNICATIONS
AND WORKS
AND ANOTHER)

(Case No. 320/69).

Practice—Parties to the proceedings—Recourse for annulment of an administrative decision—Order striking out Respondent 1 (the Minister of Communications and Works) from the title of the proceedings as he has not taken any part at all in the reaching of the sub judice decision by Respondent 2 and as he is not entitled under the relevant legislation to interfere hierarchically with the exercise of the relevant discretion of Respondent 2—A recourse under Article 146 of the Constitution such as the present one is, in effect, made against the act or decision which is its subject-matter—And the organ responsible therefor is heard only in relation to the validity of such act or decision.

Recourse under Article 146 of the Constitution—Directed in effect, against the act or decision which is its subject-matter—And the organ responsible therefor is heard only in relation to the validity of such act or decision.

The facts sufficiently appear in the Ruling of the Court.

Recourse.

Recourse against the validity of the refusal of Respondent 2 to issue road service licences to the Applicants.

A. Triantafyllides with M. Christophides, for the Applicants.

K. Talarides, Senior Counsel of the Republic, for Respondent 1.

1969
Nov. 22
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CYPRUS
TRANSPORT
CO. LTD.
AND ANOTHER
(No. 1)
v.
REPUBLIC
(MINISTER OF
COMMUNICATIONS
AND WORKS
AND ANOTHER)

Chr. Demetriades and A. Neocleous, for Respondent 2.

L. Clerides with P. Laoutas, for the Interested Party
(Lefkaritis Bros. Ltd.)

Sir P. Cacoyiannis watching the proceedings on behalf of
the British Ministry of Defence.

Cur. adv. vult.

The following ruling was delivered by:—

TRIANTAFYLLIDES, J.:— Counsel for Respondent 1 has submitted that Respondent 1 should not have been made a party to these proceedings.

As correctly pointed out by him, and as stated; also, in Administrative Law by Berthelemy (3rd ed., of 1933, translated by Stassinopoulos, p. 395) a recourse such as the present one is, in effect, made against the act or decision which is its subject-matter; and the organ responsible therefor is heard only in relation to the validity of such act or decision.

In the present instance, we are concerned with the validity of the refusal of Respondent 2 to issue road service licences to the Applicants. Under the relevant legislation Respondent 1 is not entitled to interfere, hierarchically, with the exercise of the relevant discretion of Respondent 2; except on appeal, as provided for by the said legislation; and, as a matter of fact, on the basis of the material before me, it does not appear that Respondent 1 took any part at all in the reaching by Respondent 2 of the *sub judice* decision; nor has any appeal been made to him against such decision.

I do not, really, see in what way Respondent 1 is involved in this matter and, consequently, it was not necessary, in proceeding against the Republic, in connection with the subject-matter of this recourse, to make him a party as well. I order, therefore, that Respondent 1 should be struck out from the description of the Respondent in the title of these proceedings.

As I have no doubt that Applicants have joined Respondent 1 in a bona fide effort to bring all necessary parties before the Court I am making no order as to costs in favour of Respondent 1.

Order accordingly.