

1981 May 19

[A. LOIZOU, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

SOTERIS LOUCA,

*Applicant,*

v.

- 1. THE PERMITS AUTHORITY,
- 2. THE REPUBLIC OF CYPRUS, THROUGH THE MINISTER OF COMMUNICATIONS AND WORKS,

*Respondents.*

(Case No. 349/80).

*Administrative Law—Administrative acts or decisions—Revocation—General principles of administrative law applicable—Revocation of road service licence—Not possible under express statutory provision or the general principles of administrative law—Declared null and void—Section 8(5) of the Motor Transport (Regulation) Law, 1964 (Law 16/64 as amended).* 5

*Motor transport—Road service licence—Revocation—Not possible under express statutory provision or the general principles of administrative law—Annulled—Section 8(5) of the Motor Transport (Regulation) Law, 1964 (Law 16/64 as amended).* 10

The applicant was on May 21, 1980 granted by the respondent Minister a licence, under the Motor Transport (Regulation) Law, 1964 (Law 16 of 1964 as amended), to operate his omnibus from Kyperounta to Nicosia and return. On September 9, 1980, the respondent Minister revoked this licence and hence this recourse. 15

In the course of the hearing of the recourse counsel for the respondents conceded that this application could succeed on the ground that the decision to grant a licence being a lawful executory administrative act, could not have been revoked under the general principles of administrative Law which govern the issue and inasmuch as such revocation was not claimed to be justified on grounds of public interest. 20

Section 8(5) of the above Law, so far as relevant, provides as follows:

5 "A road service licence may be revoked or suspended by the licensing authority on the ground that it has been obtained by fraud, misrepresentation or concealment of any material fact or that any condition thereof has not been complied with:"

10 *Held, (after stating the principles of administrative law governing revocation of an administrative act—vide p. 193 post) that as the prerequisites for revocation under section 8(5) of Law 16/64 are not satisfied; that as there does not appear to exist an express statutory provision empowering the Minister to revoke his acts and decisions under the provisions of this Law; and that*  
 15 *as the act of revocation is not justified under the principles of administrative law governing revocation of administrative acts the sub judice decision could not have been lawfully taken either under some express statutory provision or the general principles of administrative law; accordingly the recourse must succeed and the sub judice decision must be declared as null*  
 20 *and void.*

*Sub judice decision annulled.*

Cases referred to:

*Antoniades & Co. v. The Republic* (1965) 3 C.L.R. 673 at p. 682;  
*Republic v. Sarantis* (1979) 3 C.L.R. 139;  
 25 *Panayides v. Republic* (1972) 3 C.L.R. 467;  
*Paschali v. Republic* (1966) 3 C.L.R. 593;  
*Ioannou and Another v. Republic* (1979) 3 C.L.R. 423;  
*Decisions of the Greek Council of State* in Case Nos. 1376/71, 211/38, 1761/54, 485/48 and 832/52.

30 **Recourse.**

Recourse against the decision of the respondent revoking applicant's permit to operate his bus from Kyperounta to Nicosia.

35 *E. Odysseos*, for the applicant.  
*R. Gavrielides*, Senior Counsel of the Republic, for the respondent.

*Cur. adv. vult.*

A. LOIZOU J. read the following judgment. The applicant in this recourse comes from Ayios Epiktitos, in the Kyrenia District, and after the Turkish invasion and occupation of his village he settled at Kyperounta, having married to a woman from that village. He has been the owner of motor omnibus under Registration No. EK. 692 which before the invasion was authorized to operate on a route from Bellapais to Nicosia and return. 5

On the 2nd August, 1978, he applied to the respondent Authority for the issue to him of a permit to operate his said motor omnibus from Kyperounta to Nicosia and return. His application was examined by the respondent Authority which by its decision of the 3rd July, 1979, refused same. 10

The applicant then filed a hierarchical recourse to the respondent Minister of Communications & Works under the provisions of section 6 of the Motor Transport (Regulation) Law 1964 (Law No. 16 of 1964) as amended. Respondent 2 by his decision dated the 21st May, 1980, (Appendix 'C' to the application), decided in favour of the applicant and found that in the circumstances the granting of a temporary permit to the applicant's omnibus for the road Kyperounta-Nicosia for the better service of the increased transport needs of the passengers moving on the said route was justified. In the light of this decision the respondent Authority issued to the applicant under section 17(A) of the aforesaid Law, Permit No. 7363/80, for the period 23rd June to 22nd December, 1980. 15 20 25

On the 9th September, 1980, that is, after the lapse of about three and a half months during which time the applicant was continuously and uninterruptedly operating his omnibus on the said route, respondent 2 revoked his aforesaid previous decision and communicated same to the applicant by a letter dated the 15.9.1980. The applicant, through his lawyer, by a letter dated 6th October, 1980, protested to the Chairman of the respondent Authority for the aforesaid revocation of his permit and on the 9th October, 1980, he was informed by the respondent Authority that in compliance to the decision of respondent 2, dated 9th September, 1980, his permit for the said motor-bus was cancelled. 30 35

The applicant thereupon filed the present recourse seeking the annulment of the decisions whereby his aforesaid permit 40

was revoked. He bases his claim on a number of legal grounds. At the hearing, however, of the case, learned counsel for the respondents conceded that this application could succeed on the ground that the decision to grant a permit being a lawful  
5 executory administrative act, could not have been revoked under the general principles of administrative law which govern the issue and inasmuch as such revocation was not claimed to be justified on grounds of public interest. This Court had repeatedly the opportunity of stating the general principles  
10 of administrative law governing the question of revocation of both lawful and unlawful administrative acts. Suffice it to mention here a number of them. In the case of *Antoniades & Co. v. The Republic* (1965) 3 C.L.R., p. 673, at p. 682, Triantafyllides, J., as he then was, had this to say:

15 “..... it is to be observed first that this is a Case where revocation of earlier administrative action is expressly regulated by the particular legislation, section 155(1), and, therefore, it might well be said that it is not governed by the general principles of Administrative Law which  
20 govern such a matter in cases where the revocation is not based on a Law but is made on the basis of such general principles, (vide Conclusions from the Jurisprudence of the Greek Council of State 1929–1959 p. 199)”.

In the case of *The Republic of Cyprus v. Sarantis* (1979) 3  
25 C.L.R., p. 139, it was held that though the modern trend in administrative law is to narrow down the power of revocation of lawful administrative acts, yet such a course is not totally excluded when in particular pressing questions of public interest call for the exercise of the discretion of the administration for  
30 that purpose.

A further exposition of the law governing the question of revocation may be found in the case of *Panayides v. The Republic* (1972) 3 C.L.R., p. 467; *Iro Paschali v. The Republic* (1966) 3 C.L.R., 593; *Ioannou & Another v. The Republic* (1979)  
35 3 C.L.R., p. 423. See also the decisions of the Greek Council of State No. 1376/71, 211/38, 1761/54, 485/48 and 832/52, where it was held that it is not a good ground to revoke an administrative act merely because there is a different appreciation of the same factual circumstances or just a change in the opinion  
40 of the administration.

Under section 8(5) of the Motor Transport Regulation Law 1964, as amended the Licensing Authority, which is the Authority established by section 4 of the law, has power to revoke or suspend a service licence on certain grounds. This section reads as follows: 5

“A road service licence may be revoked or suspended by the licensing authority on the ground that it has been obtained by fraud, misrepresentation or concealment of any material fact or that any condition thereof has not been complied with: 10

Provided that the licensing authority shall not revoke or suspend a road service licence unless, owing to the frequency of the breach of conditions on the part of the licensee, or to the breach having been committed wilfully, or to the danger to the public involved in the breach, the licensing authority is satisfied that the licence should be revoked or suspended”. 15

It has not been claimed, however, that the prerequisites for revocation under the aforesaid section were satisfied in the present case so that it might have been successfully invoked in this case. 20

On the other hand there does not appear to exist an express statutory provision empowering the Minister to revoke his acts and decisions taken under the provisions of the aforesaid law. The matter, therefore, has to be examined from the point of view of the general principles of administrative law governing the question of revocation. It has been conceded that the act of revocation was not justified thereunder and having examined the circumstances of the case, I share that view. 25

As the subject decisions could not have been lawfully taken either under some express statutory provision or the general principles of administrative law, this recourse succeeds and the *sub judice* decisions are declared as null and void and of no effect whatsoever. In the circumstances, however, I make no order as to costs. 30

*Sub judice decision annulled.*  
*No order as to costs.* 35