

JOSE G. SAMALA, PETITIONER, VS. SAULOG TRANSIT, INC. AND THE PUBLIC SERVICE COMMISSION, RESPONDENTS.*G.R. No. L-25069. March 25, 1975*

Ponente: ESGUERRA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/57cce34c56a2/>**ESGUERRA, J.:**

Petition for review with preliminary injunction against the then Public Service Commission and private respondent Saulog Transit, Inc., assailing the decision dated September 7, 1965, of the respondent Commission penned by then Commissioner Enrique Medina, and the Order dated September 28, 1965, of the same respondent. Petitioner Jose G. Samala anchors his plea to declare void and without effect said decision and order of respondent Commission on the alleged lack of due process accorded to petitioner because of "gross constitutional, procedural and legal infirmities that has vitiated the decision of September 7, 1965, prepared and rendered as it were, by a Commissioner who was not assigned and delegated with the authority to receive the evidence of the parties and to decide the case and, therefore, not in a position to weigh thoroughly the evidence submitted by the parties."

Petitioner's "Supplemental Petition" dated October 9, 1965, likewise questioned the legality of respondent Commission's Order dated July 3, 1963, claiming that the questioned order of respondent Commission dated September 28, 1965, was predicated on the former which was "discriminatory and illegal"; and that respondent Public Service Commission, contrary to its pronouncement in the Order of July 3, 1963, that the Cavite City-Manila line is saturated, and reiterated in its Decision of September 7, 1965, had issued an Order dated May 3, 1963, granting and authorizing private respondent Saulog Transit Inc. an increase of almost 100% of its authorized trips on the Cavite City-Manila line (from 168 to 340 round trips).

This Court pursuant to its resolution dated October 11, 1965, issued a writ of preliminary injunction on October 12, 1965, under which then Chief Justice Cesar Bengzon enjoined the respondent Commission from enforcing the decision dated September 7, 1965, and the Order dated September 28, 1965, in Public Service Commission Case No. 62-981. Private respondent Saulog Transit Inc. in its motion dated October 29, 1965, to lift the preliminary injunction alleged: that the petitioner has not shown any right to be entitled to the protection of a writ of preliminary injunction; that he has "trifled with the good faith" of this Court and has come to it with unclean hands; that the injunction will prevent the respondent Commission from performing a legal duty and allow the petitioner to continue an illegal operation; and that the injunction will disturb rather than preserve the status quo. Notwithstanding petitioner's opposition to the private respondent's motion to dissolve injunction, this Court in the resolution of December 9, 1965, lifted the preliminary injunction.

Several motions for reconsideration of this Court's lifting of the preliminary injunction were denied. A motion to hold petitioner Jose G. Samala in contempt of this Court for allegedly continuing with the bus service in the Naic (Cavite)-Manila line after the preliminary injunction had been lifted, was resolved by this Court to be taken up when this case is considered on the merits.

The facts as gathered from the record of this case are:

Petitioner Jose G. Samala is a public utility operator operating a PUB bus service on the Cavite City-Manila line under the firm name of Saint Raphael Transit. Private respondent Saulog Transit Inc. is also a public utility operator operating, among others, a PUB bus service on the same Cavite City-Manila line, as well as on the Naic (Cavite) - Manila line. On January 24, 1962, the petitioner filed with the respondent Public Service Commission (Case No. 62-981) an application to operate twenty (20) auto trucks on the Naic-Manila line allegedly "to fill the urgent need for transportation facilities of the residents of Naic and the outlying municipalities of Maragondon and Ternate occasioned by the sudden cessation of the bus service on the Naic-Manila line by the other operator, Luzon Bus Lines." Petitioner's application was contested by private respondent Saulog Transit Inc., which was then the sole remaining operator of transportation services on the Naic-Manila line, on the alleged ground "that public convenience and necessity does not require the approval thereof because the service being rendered by it on the line applied for is sufficient and adequate for the needs of the travelling public therein."

Petitioner's application was assigned to Associate Commissioner Francisco Perfecto of the First Division of the respondent Commission for hearing and reception of evidence. On September 3, 1962, petitioner filed an Urgent Petition for provisional authority to operate 10 auto trucks in the Naic (Cavite) - Manila (Divisoria) line on the ground that his application pending resolution by the respondent Commission seemed to be delayed, could not be decided at once and public service will be prejudiced because of the immediate need for transportation facilities in the line applied for.

On January 29, 1963, after petitioner had presented evidence to support his application and before private respondent Saulog could present evidence supporting its opposition to the application, respondent Commission, thru an Order prepared by Associate Commissioner Francisco A. Perfecto and concurred in by Commissioner Enrique Medina and Associate Commissioner Gregorio C. Panganiban, authorized the petitioner to operate six buses temporarily from Naic (Cavite) to Manila, subject to the condition: "x x x 5. The provisional authority herein granted may be modified or cancelled by the Commission at anytime, and shall be valid and subsisting only during the pendency of this application, but not beyond June 4, 1963, and shall be subject to whatever action the Commission may take in the original application filed in this case."

An urgent motion for reconsideration of said order granting petitioner temporary permit to operate six buses was filed by private respondent Saulog on February 14, 1963, and an opposition thereto was filed by petitioner on February 23, 1963. Both the motion for reconsideration and the opposition were heard en banc by the Commission on May 10, 1963, and immediately submitted for resolution.

In an order dated July 3, 1963, prepared by Commissioner Enrique Medina, concurred in by Associate Commissioner Josias R. Guinto, Alex F. de Guzman, Gregorio C. Panganiban and Jose A. Fornier, but with a dissenting opinion by Associate Commissioner Francisco A. Perfecto who was then hearing the case, the Commission revoked the order of January 29, 1963, granting the petitioner provisional authority to operate six buses in the Naic-Manila line.

The said order of July 3, 1963, and the dissenting opinion are fully reproduced to enable Us to closely analyze the reason or basis for said order.

"In the decision of the Public Service Commission dated August 31, 1959 (Case No. 92794), out of 12 additional passenger buses applied for by applicant Jose Samala, the Commission granted him authority to operate only 6 additional buses on the Cavite - Manila line and denied the application with respect to the other 6 units applied for, on the ground that there was no public necessity for the operation of more than 6 additional units on said Cavite - Manila line.

"On January 24, 1962, however, same applicant Jose Samala, applied for 20 more additional buses on the same Cavite - Manila line but cleverly extended the provincial terminal to Naic, Cavite, and so the petition asked for authority to operate 20 additional buses on the "Manila - Naic" line instead of "Manila - Cavite" line; out of the 20 units applied for, the Commission, gave Samala a provisional authority to operate temporarily 6 additional units, in its order of January 29, 1963, and such order is now the subject of this motion for reconsideration.

"Except for the change of its terminal from Cavite to Naic, in all other respects the application filed in this case is identical with application filed in PSC Case No. 92794, which, as stated above, was authorized only with respect to 6 additional units and was denied with respect to the remaining 6 units applied for.

"The oppositor in said Case No. 92794 appealed the decision to the Supreme Court by certiorari and maintained that even with respect to the 6 additional units authorized by the Commission, public necessity and convenience did not warrant their operation and on March 30, 1962, the Supreme Court reversed the Commission and ruled that the Cavite - Manila line is already saturated and accordingly, the authority granted by the PSC to operate 6 additional buses on said line was cancelled; and on February 13, 1963 the Public Service Commission directed the Administrator of the Motor Vehicles Office to confiscate the PUB plates temporarily issued to six buses plus one bus used as reserve.

"With respect to the Manila - Naic line, which is a stretch of 47 kilometers, at present there are at least 40 round trips operating on the said line from 6:00 a.m., to 6:00 p.m., which is more than sufficient for a municipality of the size of Naic. This is without considering the more or less 40 round trips operated on the lines Maragondon-Manila, Ternate-Manila and Indang-Manila; all of these lines pass Naic, and also numerous trips presently being operated on the line Cavite-Manila, which is concurrent with the Manila - Naic line over a distance of about 26 kilometers.

"In view of the above decision of the Supreme Court which declares the Cavite-Manila line saturated, the action taken by the Commission on several cases previously decided, and the fact that there are already about eighty (80) round trips being operated on the Manila-Naic line with an interval of from 5 to 30 minutes per trip, the Commission does not have any other alternative but to grant the motion for reconsideration dated February 14, 1963.

"The clever expedient of mentioning the municipality of Naic as terminal in order to make it appear different from the Cavite-Manila line or to make believe that it is a mere extension of the Cavite-Manila line, does not alter the situation in any manner.

"WHEREFORE, the order of this Commission dated January 29, 1963, granting provisional authority to operate six additional units to applicant Jose Samala in the Naic-Manila line is hereby REVOKED and SET ASIDE.

"The applicant is therefore ordered to surrender to the Motor Vehicles Office Agency of Cavite City the PUB plates issued for the six (6) additional units authorized to him under the provisional authority granted in this case on January 29, 1963, within twenty (20) days from the receipt of a copy hereof. If he fails to do so, the Motor Vehicles Office Agency Registrar is requested to order the recall or confiscation of the same.

SO ORDERED."

COMMISSIONER PERFECTO DISSENTING:

"From the very face of the order, it is very patent that it has been made to appear that the same was prepared on or before July 3, 1963, and signed only on that very same date, — July 3, 1963.

"Before the said date — July 3, 1963 — upon being informed of this anomalous order, the undersigned has repeatedly requested that he be shown a copy of the order for him to read and understand it, and if need be, to protest against the anomalously unusual step being taken by our Commission.

"Repeatedly, it has been, and is the time-honored practice we have adopted that whenever a decision, order or ruling becomes the subject of a motion for reconsideration and after a hearing on the motion, the Associate Commissioner, or even the Commissioner himself who penned such decision, order or ruling, is given the task of resolving the motion for reconsideration. Then the other members of the Commission may either concur, dissent or act in any manner he or they may deem proper in the premises. This time-honored practice was ignominiously violated in this case. HOW?

"The undersigned was assigned to hear and determine this case. Hearings were consequently conducted in the usual, ordinary procedure. Both parties were heard in the manner provided for by law and by the rules of this Commission. Taking into consideration the facts and circumstances submitted during these hearings and more particularly the evidence of the existence of the urgency of the need for additional means of a safe, proper and adequate, convenient and comfortable transportation, which syphoned thru Naic from the municipalities of Maragondon, Tarnate and Indang and thru Naic itself, plus the vacuum created by the sudden cessation of the operation of the Luzon Bus Line (LBL) owned by the Manila Railroad Company about the end of 1961, an order was issued in this case granting the applicant a provisional permit to temporarily operate six (6) buses, precisely to cover and plug the vacuum that set in upon the withdrawal of the eight (8) units of the LBL on the line applied for, precisely to answer the urgent crying demand of the residence of the municipalities of Naic, Tanza, Maragondon, Tarnate, Indang and Rosario. The order of January 29, 1963, granting the provisional authority was penned by the undersigned, and concurred to by the Commissioner himself and Associate Commissioner Gregorio C. Panganiban. A motion for reconsideration was filed by counsel for oppositor and following the rules of the Commission, a hearing en banc presided by the Commissioner, was held. And then followed the anomalous and unusual actuation of the Commission. I say anomalous and unusual actuation in the light of the following:

"FIRST — The questioned provisional authority was granted by the undersigned. After the hearing en banc, the appropriate step which the Commission should have taken was to return the expediente to the undersigned, as has been the usual practice as above stated, so that he may resolve the motion for reconsideration. Following the time-honored practice above stated, propriety demands this action of the Commission, but unfortunately, this was not done so in the present case. The motion for reconsideration under consideration is not one against an interlocutory order. It is one asking for the reconsideration of a non-interlocutory order in a pending contested case which should not be referred to the Public Service Commission for action. The mere fact of holding a hearing on a motion for reconsideration en banc does not per se authorize the Commissioner to take hold of the case for him to resolve the motion for reconsideration without even consulting the ponente. And I repeat that the proper and appropriate step that the Commission should have taken was to refer the case to the undersigned so that he may resolve the motion. And then, the Commissioner and the other Associate Commissioners can act according to their own will, whether to concur or dissent.

"SECOND — In the act of signing decisions, orders or rulings penned by the Commissioner himself, such decisions, orders or rulings, after the signature of the Commissioner, are forwarded to the Associate Commissioners in succession in point of their standing in the Commission. According to the law, the undersigned comes as the third in rank, and any decision or order penned by the Commissioner should and must pass thru the undersigned after the second in rank shall have signed such decision or order. But again, I repeat, this has not been done in the present case. On July 3, 1963, when the order under consideration was supposed to have been signed, the undersigned was very much present in the Commission. That is why, as stated in the beginning of this opinion, the undersigned has repeatedly requested to be shown a copy of the subject order for his study, but was not given this opportunity. So even the law was violated. What did the Commissioner do? He chose to have all the other Commissioners sign before informing the undersigned who received the expediente only on July 29, 1963, that is, twenty-three (23) days after the said order was supposed to have been signed, at a time when the undersigned was already under treatment in the Emmanuel Cooperative Hospital, an unpropitious coincidence when the undersigned was physically disabled to act. He could not attend to his daily work for one week, and even up to this date, he can not still physically and officially be in his office until his present ailment would allow him to do so."

But what is worse is that the anomalous and unusual procedure followed here is very dangerous and can blemish the integrity of the Commission. This will lead to chaos because everytime a member of the Commission can stealthily approach the other members for their signature before one of a higher rank can take cognizance of the matter. Without proper decorum any Associate Commissioner can follow this ignominious procedure to embarrass the Commissioner himself. This, of course, is not the intention of the Public Service Law.

"THIRD — And now for the facts of the case. As above stated, the provisional authority granted to the applicant and against which a motion for reconsideration was filed, was penned by the undersigned and concurred in by the Commissioner himself and Associate Commissioner Gregorio C. Panganiban. Said provisional authority was therefore granted in an order signed en banc. It was granted after a careful examination of the evidence on record. The Commissioner in concurring to the grant of the provisional authority was, of course, convinced that there is really an urgent need for granting the authority. It is an elementary principle in public service cases that public convenience is of paramount importance.

"But what seemed to change the stand of the Commissioner in this case was the alleged dictum of the Supreme Court to the effect that the line Cavite-Manila is saturated, meaning to say that the existing services are more than enough to accommodate the travelling public along the line. But this dictum is beside the point. It was enunciated after the provisional authority was already granted and in full force and effect. The evidence of record reveals that part of the travelling public being served on this so-called "saturated line" comes from the municipalities of Tanza, Naic, Maragondong, Tarnate and Indang. The evidence shows that the residents of these municipalities who commute daily to Manila have to ride in jitneys up to Noveleta and even up to Cavite City in order to assure themselves of accommodation, as they can not be assured of accommodation on the buses leaving from their respective municipalities direct to Manila. Witnesses of applicant have testified that there are very few trips of the Saulog coming from Naic, Tarnate, Maragondong and Indang. These few trips being made by the Saulog only goes to show that oppositor Saulog is not complying with its authorized time schedule. Witnesses for applicant also declared that the Saulog buses would not leave their point of origin unless they are almost filled with passengers. That is why they are having difficulty in getting adequate means of transportation. And what of the cessation of the service of the Luzon Bus Line which usually send eight (8) buses in those municipalities? Precisely this point was emphasized when the undersigned resolved to grant a provisional authority to applicant, but only for six (6) buses instead of at least eight (8) to fill in the gap created by the sudden withdrawal of the operation of the Luzon Bus Line, and in a sense not to create ruinous competition with the service of the oppositor.

"But this fact is entirely ignored in the order of Commissioner Medina, and instead stresses the fact that the line Manila-Cavite is saturated, and citing, further that there are 40 trips of the Saulog coming from Naic and another 40 odd trips from Indang, Tarnate and Maragondong. However, these authorized number of trips are only on paper. Granting for the sake of argument that the Saulog is really authorized those 80 trips, the evidence of applicant clearly shows that the Saulog failed to make all these trips and only made a few trips which do not depart from the point of origin except when the buses are almost filled with passengers, thus ever lessening the already depleted number of trips because of the cessation of the operation of the Luzon Bus Line. Added to this fact is the uncontradicted evidence that when the Saulog Transit became the sole operator, it went on serving the riding public with dilapidated units and the drivers became arrogant and unconcerned with the comfort and convenience of the travelling public. The Saulog's obsession is to monopolize the transportation service in Cavite to the extent of sacrificing safe, adequate, comfortable and convenient service. This is precisely what the Supreme Court wants to avoid when it held:

'x x x Reasonable and well regulated competition should be stipulated because it encourages and promotes a public service as well as the interests of a community. Ruinous competition ought to be avoided. But constructive and well regulated competition makes for progress and development of ice industry for the benefit of the community.' (Cebu Ice and Cold Stores Corp. v. Velez, G. R. 35705 cited with approval in G. R. I-4266, Feb. 29, 1952, in the case of Banaag vs. Estate of Enriquez.)

"It is, therefore, with regret that the anomalous order of July 3, 1963, should have come into existence without the same passing through the undersigned before coursing it through the other Commissioners who should have viewed the same together with this opinion. The other Commissioners were not given the proper chance and appropriate time so that they could properly weigh the circumstances pro and con pertaining to the grant of the provisional authority.

"Why penalize the passengers from Indang, Maragondong, Tarnate and Naic, forcing them to incur extra expenses in taking jitneys from these towns to Noveleta and even as far as Cavite City in order to be secured of accommodation, when they can avail of the service of the applicant? Surely, it is not the intention of the Supreme Court to deprive the people of the towns of Indang, Tarnate, Maragondong and Naic of an adequate convenient and comfortable means of transportation, taking into consideration the cessation of the operation of the Luzon Bus Line, when it enunciated that dictum that the Cavite-Manila line is saturated.

"I, of course, firmly believe in the reasonableness of my grant of the provisional authority to applicant, based on the evidence of record, and I, therefore, dissent to the subject order dated July 3, 1963, and thereby confirm my stand on said grant."

We continue with the facts:

In the meantime after the filing of private respondent Saulog's urgent motion for reconsideration (February 14, 1963) up to the issuance of the order dated July 3, 1963, the period designated in the provisional authority of January 29, 1963, lapsed on June 4, 1963. An attempt was made by petitioner to file the proper pleading for an extension of the period but when the said pleading was presented to the Transportation Division of the respondent Commission for assessment of the docket fee and the filing of the pleading, it was refused assessment on the ground that to accept it while the motion for re-consideration of private respondent Saulog was still pending resolution would result in anticipating whatever action the respondent Commission might take on the matter.

Petitioner filed on August 5, 1963, a motion for reconsideration of the respondent Commission's order of July 3, 1963, to which the private respondent filed an opposition on August 29, 1963. On January 15, 1964, the Commission issued a minute order denying the petitioner's motion for reconsideration. Petitioner filed a motion for new hearing on the matters raised in his motion for reconsideration of the Commission's Order dated July 3, 1963, but said motion was never resolved. While this incident was pending resolution, petitioner finished presenting evidence in the principal application P.S.C. Case No. 62-981. Because of the Commission's inaction on petitioner's motion for new hearing and to remedy the situation (the provisional authority to operate 6 buses having lapsed on June 4, 1963), petitioner on February 26, 1964, filed another application for provisional authority to operate. This application for provisional authority was never acted upon. The respondent Commission on February 27, 1964, issued an order directing petitioner to surrender his six PUB plates issued pursuant to the provisional authority of January 29, 1963, and directed the Motor Vehicles Office to confiscate said plates. Petitioner believing that the respondent Commission must first resolve its motion for new hearing before it could issue the order of February 27, 1964, continued operating, both the respondent Commission and the private respondent Saulog knowing of the continued operation and both not persisting in enforcing the Order dated February 27, 1964.

The respondent Commission continued hearings on the principal case (P.S.C. No. 62-981) and upon termination of reception of evidence and after the case had been submitted for decision, on Sept. 7, 1965, apparently issued two decisions in Case No. 62-981, one decision dated Sept. 7, 1965, prepared by Commissioner Medina and concurred in by Associate Commissioner Gregorio C. Panganiban consisting of four pages, denying the petitioner's application; another decision, undated, penned by Associate Commissioner Francisco A. Perfecto,

consisting of 18 pages, with a manifestly thorough discussion of the evidence presented in the case, and approving the petitioner's application.

Petitioner filed his motion for reconsideration against the decision dated Sept. 7, 1965, but respondent Commission before resolving petitioner's motion for reconsideration, issued an order dated Sept. 28, 1965, directing the authorities concerned to confiscate the six (6) PUB plates issued to the petitioner.

I

The glaringly manifest unusual proceedings undertaken in this case by the respondent Commission leaves Us not much room for doubt as to the reason for the then complexity of problems involving transportation facilities for public service. The application in Public Service Commission Case No. 62-981 was filed on January 24, 1962 apparently to ease the transport problem for the people of Naic, Cavite and its outlying towns arising from the sudden cessation of the bus service on the Naic-Manila line by the Luzon Bus Lines (a situation that needed immediate consideration) and yet it took the respondent Commission up to Sept. 7, 1965 (nearly four years) to issue two separate decisions that contradict each other, thereby increasing ambiguity in the controversy instead of finally resolving the issues with sufficient speed so as to serve the best interest of the riding public by assuring comfort and convenience in transportation facilities.

As to the Order of July 3, 1963, of revoking the provisional authority to operate six additional units in the Naic-Manila line granted to petitioner in its order of January 29, 1963, it is immediately discernible by a scrutiny of the latter order that when the respondent Commission issued the order of January 29, 1963, it based its exercise of discretion to grant petitioner provisional authority to operate six units on the evidence submitted by petitioner to prove that public service would be served and enhanced by allowing said additional service although temporary in nature. The respondent Commission based its order on evidence submitted presumably credible and not on its mere whim or caprice. Its finding as clearly indicated in the order signed by Associate Commissioner Francisco A. Perfecto and concurred in by Commissioner Enrique Medina and Associate Commissioner Gregorio C. Panganiban, is that the private respondent Saulog Transit no longer rendered a good, efficient and adequate service in the Naic-Manila line because when it was left alone (Luzon Bus Line service withdrawn) "the employees of this company lost their courtesy to the passengers, and the buses sent were dilapidated and dirty and often soiling the clothes of the students and employees."

The questioned order of July 3, 1963, suffers from inherent infirmities upon its face, aside from the procedural defect stated by Associate Commissioner Perfecto in his dissenting opinion. A cursory reading of this order of revocation of the petitioner's provisional authority to operate 6 additional units in the Naic-Manila line shows that it is predicated on the false assumption that the Naic (Cavite) - Manila line is the same as the Cavite City-Manila line. Such is not the case, however, because although buses on both lines coming from Manila pass through the same road up to the town of Noveleta, at this junction town the Naic-Manila line has to follow a different road (left) to Naic of about 27 kilometers while the Cavite City-Manila line follows a road to the right of only 8 kilometers distance to Cavite City. Aside from the very much greater distance involved, the Naic-Manila line serves the transportation needs of the people coming from the towns of Rosario, Tanza, Ternate, Maragondon with Naic as center terminal of the bus line.

The said order (July 3, 1963) is premised on the reasoning that the decision of the Public Service Commission dated Aug. 31, 1959, (Case No. 92794) granting petitioner six additional units in the Cavite City-Manila line (not Naic-Manila line) was reversed by this Court in G. R. No. L-16232 on the ground that the Manila-Cavite line is saturated. Be that as it may, We did not pronounce in that case that the Naic-Manila line was saturated. The application of petitioner in P.S.C. Case No. 62-981 is for additional units in the Naic-Manila line and not the Cavite-Manila line; hence any pronouncement that the Cavite-Manila line is saturated cannot affect the

Naic-Manila line which is a different line. Besides, We readily observe that whereas the respondent Commission's order of January 29, 1963, granting petitioner provisional authority to operate 6 units in the Naic-Manila line was based on evidence presented by petitioner, thus complying with the requirement of due process, the subsequent order (July 3, 1963) revoking said authority is not only based on a false assumption (that the Naic-Manila line is the same as the Cavite City-Manila line) but also without basis of evidence adduced by the parties because there is no showing (no evidence presented) that since January 29, 1963, when the provisional authority was granted up to July 3, 1963, when it was revoked, that there had been a change in the transportation situation in the Naic-Manila line so as to justify the revocation. A revocation of a provisional authority of the nature given by the respondent Commission cannot just be ordered upon mere whim or caprice on its part and must be based on credible evidence, since to sanction said act of respondent Commission would be tantamount to deprivation of due process on the part of petitioner who must have invested money in making the additional units available for public service. Neither could We uphold completely private respondent Saulog's contention that the provisional authority to operate additional six units in the Naic-Manila line automatically lapsed on June 4, 1963, not only because of the proven petitioner's attempt to extend the period which was not acted upon by respondent Commission, but also because of the respondent Commission's own act of revoking said authority by its Order of July 3, 1963, since if said authority automatically lapsed on June 4, 1963, there would be no need for that order of revocation dated July 3, 1963.

The statement contained in the dissenting opinion of Commissioner Perfecto alluding to the alleged highly anomalous procedure followed by Commissioner Medina in the preparation of the questioned order of July 3, 1963, is a revelation in itself since it exposes the said order as a threat to the integrity of the Commission. The discussion contained therein of the situation existing in the Naic-Manila line as proven by evidence that prompted the respondent Commission to grant the provisional authority for petitioner to add six units in that line is very much more elucidating than the questioned order of July 3, 1963, and sufficiently convincing to Us that said provisional authority should not have been revoked.

There is nothing left for Us to do except to declare the order of July 3, 1963, by respondent Commission void and of no effect in the light of its being based on an erroneous assumption (that the Naic-Manila line is the same as the Cavite City-Manila line), and not on evidence of record since a change in the proven situation prevailing in the Naic-Manila line was not established. It was simply whimsical and capricious to deprive petitioner of his right to operate. The action of the Commission, as explained by Associate Commissioner Perfecto in his dissenting opinion, was highly anomalous.

II

An examination of the contested decision dated Sept. 7, 1965, denying petitioner's application in Case No. 62-981, clearly shows that it is but a reiteration in a more elaborate manner of the reasoning followed by respondent Commission in its order of July 3, 1963. Again, the respondent Commission anchored its denial of the application on the allegation that this Court in G. R. No. L-16232 stated that the Cavite-Manila line was saturated (not the Naic-Manila line) and that its order (July 3, 1963), en banc, revoked the provisional authority of petitioner to operate six units in the Naic-Manila line, merely reproducing the contents of said order. What strikes Us as highly unusual in that decision of September 7, 1965, is that there is no discussion whatsoever of the evidence presented by the petitioner to support his application and that of the evidence presented by private respondent Saulog to oppose the same that the respondent Commission could arrive at a correct appreciation of the true situation prevailing in the Naic-Manila line so necessary in making a decision on whether or not petitioner's application for additional units in that line would redound to a better public service. The same infirmities found in the respondent Commission's order of July 3, 1963, exist in the questioned decision of Sept. 7, 1965, and necessarily so because said decision is but a reiteration of said order. The more glaring the defects in

this decision of Sept. 7, 1965, appear if compared to that undated decision prepared by Associate Commissioner Perfecto which thoroughly discussed the evidence presented by both parties (petitioner and private respondent Saulog in Case No. 62-981) and stated the reasons why petitioner's application must be allowed.

Again, We cannot do otherwise but declare the decision of Sept. 7, 1965, by respondent Commission void because it suffers from the same fatal defects as We already stated in considering the validity of respondent Commission's order dated July 3, 1963.

III

In line with the above, the respondent Commission's order dated September 28, 1965, which is but designed to implement its decision dated Sept. 7, 1965 must likewise be declared as it is hereby declared, void and without effect.

We examined the undated decision penned by Associate Commissioner Francisco A. Perfecto in Case No. 62-981 and found it sufficiently exhaustive and convincingly complete in the discussion and evaluation of evidence presented by both the petitioner and the private respondent Saulog so as to arrive at a fairly safe conclusion as to the true situation obtaining in the requirement of transportation facilities in the Naic-Manila line that will result in maximum service to insure the comfort and convenience of the riding public, thereby granting the petitioner the certificate of public convenience applied for to operate ten auto trucks on the Naic-Manila line. This decision to Our mind complies with the requirement of due process and is fairly accurate in its determination of the merits of the application in Public Service Commission Case No. 62-981, for which reasons We affirm it as final and binding in said case. Accordingly the private respondent's motion to declare petitioner in contempt of this Court is completely devoid of merit.

WHEREFORE, respondent Public Service Commission's order dated July 3, 1963, is declared void and without effect; its decision dated September 7, 1965, is likewise void and without effect, together with the implementing order dated September 28, 1965; private respondent's motion to declare petitioner in contempt is denied; the undated decision penned by Associate Commissioner Francisco A. Perfecto is affirmed as valid and binding in P.S.C. Case No. 62-981; and the preliminary injunction issued by this Court on October 12, 1965 is reinstated and made permanent.

Without pronouncement as to costs.

SO ORDERED.

Makalintal, C.J., (Chairman), Castro, Teehankee, and Makasiar, JJ., concur.

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