

BENEDICTO C. LAGMAN, DOING BUSINESS UNDER THE FIRM NAME AND STYLE MARCO TRANSIT, PETITIONER, VS. HON. ENRIQUE MEDINA, THE HON. PUBLIC SERVICE COMMISSION, THE CHIEF OF POLICE OF ...*G.R. No. L-22615. December 24, 1968*

Ponente: CONCEPCION, C.J.

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Original petition for certiorari and prohibition, to invalidate some orders of the Public Service Commission—hereinafter referred to as PSC—or to declare the same inapplicable to petitioner Benedicto C. Lagman, and to restrain the enforcement of said orders during the pendency of this case. Upon the filing of the petition, respondents herein, Public Service Commissioner Enrique Medina—hereinafter referred to as the Commissioner—the PSC and the Chief of Police of Manila, were required to file their respective answers within the reglementary period. Meanwhile, Lagman moved that his prayer for a writ of preliminary injunction be granted, but this Court refused to issue said writ. A second motion to the same effect was similarly denied.

The pertinent facts are: On February 13, 1963, the Commissioner issued an order, to take effect after ninety (90) days, providing that only PU buses operating exclusively within the City of Manila shall be permitted to enter and continue operating within the limits thereof, and requiring provincial PU buses, or those operating from the City of Manila to any point in Luzon and vice-versa, to establish terminals outside the City, as well as prohibiting them from entering the same or operating within its perimeter. This order was amended by a supplemental order, dated March 12, 1963, pursuant to which the authority to enter and continue operating within the City of Manila was extended to "PU buses operating exclusively within the limits of Greater Manila," which shall be deemed to include Pasay City, Baclaran, Makati, Quezon City, San Juan, Mandaluyong, Caloocan, Navotas and Malabon.

By an order dated May 7, 1963, the effectivity of the bus ban was postponed to August 15, 1963. On July 22, 1963, the Commissioner issued another order stating that, before the promulgation of the order of February 13, 1963, notices had been "sent to all PUB operators"—which notices were "publicized" in the newspapers—"inviting them to appear . . . for conference" on January 17, 1963; that "the operators appeared on said date personally or by counsel and were given opportunity to air their opinions freely and lengthily, and after hearing the side of all the operators, an agreement was reached, to the effect that the operation of provincial buses and buses in the City of Manila and suburbs should be regulated" in the manner indicated in the order; that upon the request made by "some interested operators," the order of February 13, 1963 was amended "so that the radius covered by the term 'City of Manila and suburbs' be enlarged to include Greater Manila;" that upon the request of operators who needed time "to complete their terminals," the date of effectivity of the ban was on May 7, 1963, postponed to August 15, 1963; that other operators had filed motions for reconsideration praying that the orders of April 1 and May 7, 1963 "be entirely reconsidered and revoked;" and that the Commissioner was willing to hear anew these operators "and to receive whatever evidence . . . they may want to introduce," for which reason the corresponding hearing was "set for Aug. 5-9, 1963, at 2 p.m., every day till finished."

Moreover, said order of July 22, 1963, "reaffirmed and provisionally maintained" the orders of March 12 and May 7, 1963, and "provisionally included" the municipalities of Pasig, Marikina and Pateros" within the perimeter of "Greater Manila," as well as required "authorized PUB operators who have straight routes from Manila and suburbs to the provinces and/or vice-versa" to inform the PSC, within 10 days, "which of their units shall be operated in the City of Manila and suburbs, and which shall be operated in the provinces." The foregoing measures were implemented by Administrative Order No. 1 of the Commissioner, dated February 17, 1964, pertinent parts of which read:

"All public utilities including jeepneys heretofore authorized to operate from the City of Manila to any point in Luzon, beyond the perimeter of Greater Manila, shall carry the words "For Provincial Operation" in bold and clear types on both sides or on one side and at the back of the vehicle and must not be less than 12 inches in dimension. All such vehicles marked "For Provincial Operation" are authorized to operate outside the perimeter of Greater Manila in accordance with their respective certificates of public convenience, and are not authorized to enter or to operate beyond the boundary line fixed in our order of March 12, 1963 and July 22, 1963, with the exception of those vehicles authorized to carry their provincial passengers thru the boundary line up to their Manila termini which shall be identified by a sticker signed and furnished by the PSC and by the Mayors of the affected Cities and municipalities, and which shall be carried on a prominent place of the vehicle about the upper middle part of the windshield.

"All such public utility vehicles authorized by this Order to enter the City of Manila and to carry their passengers thru the boundary line, are not permitted to load or unload or to pick and/or drop passengers along the way, but must do so only in the following places;

"a. Vehicles coming from the NORTH, may load or unload at the Dimasalang Rotonda or at the Corner of Jose Abad Santos St. and Rizal Avenue;

"b. Vehicles coming from the EAST may load or unload at the Sta. Mesa Rotonda or at the Corner of Governor Forbes St. and España;

"c. Vehicles coming from the SOUTH may load or unload at the San Andres-Taft Rotonda; at Plaza Lawton or at the Corner of Harrison and Mabini Streets near the Manila Zoo."

On February 27, 1964, the effectivity of the bus ban was further deferred to March 2, 1964.

Prior thereto, or on March 20, 1963, the PSC had granted Lagman a certificate of public convenience to operate fifteen (15) autotrucks, with fixed route and regular termini, for the transportation of passengers and freight on the line Bocaue (Bulacan)-Parañaque (Rizal), via Rizal Avenue, Plaza Goiti, Sta. Cruz Bridge, Plaza Lawton, P. Burgos and Taft Avenue, Manila.

Immediately after the ban become effective, or on March 5, 1964, Lagman filed with the PSC an urgent petition for exemption from the bus ban. This petition was, on March 12, 1964, reiterated to the PSC en banc. Soon thereafter, or on March 20, 1964, and before any action had been taken on said petitions, Lagman commenced the present action, alleging that the bus ban is inapplicable to him, because, at the time of the issuance of the first order establishing the ban, he was not yet a public utility operator; that he had not been notified of the hearings held on August 5-9, 1963; that the provisions of the bus ban had not been incorporated into his certificate of public convenience; that to be applicable to a grantee of such certificate subsequently to the issuance of the order establishing the ban, there should be a decision, not merely by the Commissioner, but, also, by the PSC, rendered after due notice and hearing, based upon material changes in the facts and circumstances under which the certificate had been granted; and that, the ban is unfair, unreasonable and oppressive.

Petitioner's claim is devoid of merit, inasmuch as:

1. The terms and conditions of the bus ban established by the Commissioner are substantially identical to those contained in Ordinance No. 4986 of the City of Manila "rerouting traffic on roads and streets" therein, approved on July 30, 1964. In G.R. No. L-23305, entitled "Lagman vs. City of Manila," petitioner herein assailed the validity of said ordinance, upon the ground, among others, that it tended to amend or modify certificates of public conveniences issued by the PSC; that the power therein exercised by the City of Manila belongs to the PSC; and that the ordinance is arbitrary, oppressive and unreasonable. In a decision promulgated on June 30, 1966, this Court rejected this pretense and dismissed Lagman's petition in said case.
 2. Petitioner's certificate of public convenience, like all other similar certificates, was issued subject to the condition that operators "shall observe and comply . . . all the rules and regulations of the Commission relative to PUB service," and the contested orders—issued pursuant to Section 13(a), 16(g) and 17(a) of Commonwealth Act No. 146, as amended—partake of the nature of such rules and regulations.
 3. Said orders were merely provisional in nature, since public hearings were then still being held in connection with the aforementioned bus ban.
 4. The purpose of the ban—to minimize the "traffic problem in the City of Manila" and the "traffic congestion, delays and even accidents" resulting from the free entry into the streets of said City and the operation "around said streets, loading and unloading or picking up passengers and cargoes" of PU buses in great "number and size"[1]—and the letter and spirit of the contested orders are inconsistent with the exclusion of Lagman or of those granted certificates of public convenience subsequently to the issuance of said orders from the operation thereof.
 5. Two (2) of Lagman's buses, or 15% of all his units, had been exempted from the operation of the ban, to shuttle petitioner's passengers from the corresponding entry control points in the City of Manila.
 6. Although the decision granting Lagman's application for a certificate of public convenience was rendered on March 20, 1963, or a little over a month after the first order of February 13, 1963, establishing the bus ban, such order was amended, not only by an order dated March 12, 1963, but, also, by subsequent orders dated May 7 and July 22, 1963, and February 27, 1964, or subsequently to the promulgation of said decision, and these amendatory orders have taken the place of the order of February 13, 1963.
 7. From January, 1963—when notices were sent to all PUB operators inviting them to a conference with the Commissioner in connection with the proposed bus ban, which notices were "publicized in the newspapers"—to March 2, 1964, when the ban became effective, Lagman had more than ample time within which to submit his objections, if any, to said proposal, yet he did not do so until after the ban had become effective.
 8. His objections to said ban, as set forth in the urgent petitions filed by him with PSC, on March 5 and 12, 1964, are those relied upon in his petition herein—namely, (a) non-incorporation in his certificate of public convenience of the terms and conditions of the ban; (b) the same allegedly had the effect of amending said certificate; (c) alleged unfairness, unreasonableness and oppressiveness of the ban; (d) non-inclusion of his auto-trucks within the purview of the ban—which, as above indicated, are untenable.
 9. The theory to the effect that, to be valid, the aforementioned orders must be issued by the PSC, not merely by its Commissioner, and only after due notice and hearing, is predicated upon the premise that the bus ban operates as an amendment of petitioner's certificate of public convenience, which is false, and was not sustained by this Court in its decision in G.R. No. L-23305, which is binding upon Lagman, he being the petitioner in said case.
- WHEREFORE, the petition herein should be as it is hereby dismissed and the writs prayed for denied, with costs against petitioner Benedicto C. Lagman.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando and Capistrano, JJ., concur.

[1] As stated in the order of February 13, 1963.

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