

**BATANGAS TRANSPORTATION CO. AND LAGUNA TAYABAS BUS CO.,
PETITIONERS, VS. VICENTE DE VERA, COMMISSIONER OF PUBLIC
SERVICE COMMISSION, AND ELISEO SILVA, RESPONDENTS.***G.R. No. 46625. October 06, 1939*

Ponente: MORAN, J.

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Respondent Eliseo Silva holds a certificate of public convenience, authorizing him to operate a bus transportation service between Manila and certain terminal points in the provinces of Batangas and Laguna, subject to the restrictions that within the zone comprised between Manila and Calamba, and within that comprised between Calamba and the provincial terminal points, no local service, either passenger or freight, can be rendered by him. On February 18, 1939, said respondent filed an application with the Public Service Commission, praying, for the reasons therein stated, that the restrictions above mentioned be lifted. All the Interested parties were notified of this application and of the date set for its hearing. Petitioners herein, Batangas Transportation Co. and Laguna Tayabas Bus Co., opposed the application. On March 23, 1939, the case was called for hearing, and both petitioners appeared. The respondent Commissioner, after apprising himself of the nature of the application, issued the following order:

"De acuerdo con el procedimiento seguido por esta Comision en asuntos de la misma naturaleza, por la presente se ordena al Jefe de la Division de Transportacion de esta Comision a que estacione un numero suficiente de agentes o checkers en puntos estrategicos de las lineas que son objeto de la presente solicitud para tomar nota del volumen del trafico de pasajeros en dichas lineas a fin de determinar la conveniencia del levantamiento de las restricciones que aqui se solicita.

"Y a los efectos de esta orden, por la presente se ordena el levantamiento provisional de las restricciones impuestas al solicitante Eliseo Silva por un periodo experimental de tres meses desde el 1.º de abril hasta el 30 de junio del presente año, y se ordena a dicho solicitante a que deposite en esta Comision antes del 1.º de abril de este año la cantidad de P450 para los sueldos de tres checkers adicionales que han de ser nombrados por esta Comision para tomar nota del numero de pasajeros de todos los auto-trucks TPU que operan en las lineas en cuestion durante dicho periodo de tres meses.

"Por ultimo, se ordena al Jefe de la Division de Transportacion a que, despues de expirado dicho periodo de tres meses, someta su correspondiente informe sobre el volumen del trafico de pasajeros en las lineas solicitadas, con especificacion del numero de pasajeros transportados en los buses de cada operador con los promedios diarios correspondientes, y una vez sometido dicho informe senalase a vista este expediente con notificacion de todas las partes interesadas."

This order is now challenged in the present certiorari proceedings as having been issued by the respondent Commissioner in gross abuse of his discretion and contrary to the provisions of law. It is argued that said order was issued without a proper hearing, the applicant not having adduced any evidence to show that the removal of the restrictions applied for will promote public convenience, and the oppositors no having been given an

opportunity to present evidence in support of their oppositions.

It is true that by section 16-(m) of the Public Service Act, respondent Commissioner cannot amend any certificate issued under its provisions except upon notice and proper hearing. In the instant case, however, the order complained of does not amend the certificate of public convenience. It settles no rights of the parties. It determines no merit of the case. It decides nothing finally or provisionally. In substance and in effect, it is a mere order of investigation preparatory to the final hearing and decision of the application.

There can be no doubt that the respondent Commissioner has the power, even without a previous hearing, to investigate, upon his own initiative, any matter in connection with any public service as regards matters under the jurisdiction of the Commission. (Sec. 17-[a], Public Service Act.) And, as we have held in the Yellow Taxicab cases, G. R. Nos. 41434 to 41449, the Commission, in the exercise of its quasi-judicial and administrative functions, may take into consideration the result of its own observation and investigation of the matter submitted to it for consideration and decision, in connection with other evidence presented at the hearing of the case.

If the provisional lifting of the restrictions may furnish reliable data, as is claimed by the respondent Commissioner, for a more precise determination as to whether or not the necessities of public convenience would justify their permanent abrogation, it may be regarded as a mode of investigation which may be allowed if not abused. And there is no abuse where there is no showing that such mode of investigation has been resorted to whimsically and capriciously with no other probable result than the impairment of the rights of other parties.

Petition is dismissed, with costs against petitioners.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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