

1972  
Mar. 14  
—

[TRIANTAFYLIDES, P., L. LOIZOU, HADJIANASTASSIOU,  
A. LOIZOU, MALACHTOS, JJ.]

ANDREAS  
PSALTIS

ANDREAS PSALTIS,

v.

*Appellant,*

REPUBLIC  
(MINISTER OF  
COMMUNICATIONS  
AND WORKS  
AND ANOTHER)

*and*

THE REPUBLIC OF CYPRUS, THROUGH  
THE MINISTER OF COMMUNICATIONS AND WORKS  
AND ANOTHER,

*Respondents.*

(Revisional Jurisdiction Appeal No. 87).

---

*Motor Transport—Road use licence—The Motor Transport (Regulation) Law, 1964 (Law No. 16 of 1964)—Licensing authority rejecting application for road use licence—Appeal to Minister under section 6 of the statute—Minister's decision dismissing said appeal—Minister's decision challenged by the present recourse under Article 146 of the Constitution for failure to consider paragraph (c) of sub-section (2) of section 8 of the said statute—On the material on record it was reasonably open to the Minister to dismiss the appeal—In that when stating in his sub judice decision that there did not exist "needs" justifying the route concerned, the Minister was using a general term encompassing the relevant considerations under both paragraphs (c) and (d) of the said sub-section (2) of section 8 (supra)—Therefore, the Judge of this Court who tried in the first instance the recourse was right in dismissing the recourse.*

*Road use licence—Refusal—Appeal to the Minister—Recourse against Minister's decision dismissing the said appeal—Dismissal of said recourse in the first instance—Appeal to the Supreme Court from such dismissal—Appeal dismissed.*

The facts sufficiently appear in the judgment of the Supreme Court, dismissing this appeal of the applicant in the recourse against the dismissal of the recourse by a Judge of

this Court who dealt with the matter in the first instance (see the decision appealed from in (1971) 3 C.L.R. 372).

1972  
Mar. 14

**Appeal.**

ANDREAS  
PSALTIS

v.

REPUBLIC  
(MINISTER OF  
COMMUNICATIONS  
AND WORKS  
AND ANOTHER)

Appeal from the judgment of a Judge of the Supreme Court of Cyprus (Stavrinides, J.) given on the 15th September, 1971, (Case No. 18/68) whereby applicant's recourse against the determination by the respondent Minister of Communications and Works of an appeal made by the applicant against a decision of the respondent Licensing Authority, refusing him a road service licence in respect of the route from Ayios Amvrosios to Famagusta via Lefkoniko, was dismissed.

*L. Papaphilippou*, for the applicant.

*L. Loucaides*, Senior Counsel of the Republic,  
for the respondents.

*Cur. adv. vult.*

The judgment of the Court was delivered by :-

TRIANTAFYLIDIS, P. : The appellant complains against a first instance judgment \* of a judge of this Court by virtue of which there was dismissed a recourse of the appellant against the determination by the respondent Minister of Communications and Works of an appeal which was made by the appellant against a decision of the respondent Licensing Authority refusing him a road service licence in respect of the route from Ayios Amvrosios to Famagusta, via Lefkoniko.

The decision of the Licensing Authority was reached under section 8(1) of the Motor Transport (Regulation) Law, 1964, (16/64) and the appeal against such decision, to the Minister of Communications and Works, was made under section 6 of the same Law.

The appellant applied for the road service licence in

---

\* Published in (1971) 3 C.L.R. 372.

1972  
Mar. 14

ANDREAS  
PSALTIS

v.

REPUBLIC  
(MINISTER OF  
COMMUNICATIONS  
AND WORKS  
AND ANOTHER)

question on the 4th April, 1967, and it was stated in his application that the inhabitants of Ayios Amvrosios, who have to travel to Famagusta, are compelled to come to Nicosia in order to get a bus to Famagusta.

The matter was referred for investigation to the Assistant District Officer in Kyrenia and, eventually, his views, as well as those of the Kyrenia Police, were communicated to the Licensing Authority.

On the 9th August, 1967, the Authority informed the appellant that it had decided to refuse him the road service licence applied for; it was stated by the Authority that the inhabitants of Ayios Amvrosios village had dealings in Nicosia and not in Famagusta. It is quite clear that this view of the Authority was based, in particular, on the information which it received, as aforesaid, from the local authorities in Kyrenia.

The appellant appealed, then, to the Minister of Communications and Works, on the 4th September, 1967, and it was mentioned, *inter alia*, in his appeal that the decision of the Licensing Authority prevented the development of the whole area around Ayios Amvrosios and that it was also contrary to the provisions of paragraphs (a), (c) and (d) of section 8(2) of Law 16/64.

The Minister determined the appeal, after seeking the advice of the Road Motor Transport Board, set up under section 3 of Law 16/64; his decision is dated the 29th December, 1967. He found, in effect, that the Licensing Authority, acting in the exercise of its relevant discretionary powers, had correctly refused the road service licence, because there did not exist needs justifying the operation of the route proposed by the appellant.

We must state at this stage that we do not think that the learned trial judge was justified in taking the view that the appellant had never alleged, either by his application for a road service licence or by his appeal, that the proposed route was desirable in the public interest, in the sense of paragraph (c) of subsection (2) of section 8 of Law 16/64. On the contrary, it appears to us that in the manner in which there were framed

the application of the applicant to the Licensing Authority and his appeal to the Minister, the desirability of, as well as the necessity for, the proposed route, in the public interest, were sufficiently relied on.

1972  
Mar. 14

—  
ANDREAS  
PSALTIS

Counsel for the appellant in asking us to allow the appeal and set aside the decision of the Minister—into which has merged the earlier decision of the Licensing Authority, by way of completion of the relevant administrative process—has argued that the Authority, and later the Minister, dealt with the applicant's case on the basis only of paragraph (d) of subsection (2) of section 8 of Law 16/64, which refers "to the needs of the area as a whole in relation to traffic... and the co-ordination of all forms of passenger transport", and that there was not considered, too, by the Authority and the Minister, under paragraph (c) of subsection (2), "the extent to which the proposed service is necessary or desirable in the public interest".

v.  
REPUBLIC  
(MINISTER OF  
COMMUNICATIONS  
AND WORKS  
AND ANOTHER)

In the light, in particular, of the fact that the appellant had raised, by the terms in which his application to the Licensing Authority was framed, and by his appeal to the Minister, in which he referred expressly to the said paragraph (c), the question of the desirability, and as, moreover, the Chairman of the Village Commission of Ayios Amvrosios had informed in writing the Authority that the proposed route was needed by the inhabitants of the village, it would be unreasonable to hold that either the authority or the Minister did not have in mind, also, the aspect of the matter under paragraph (c) of subsection (2) of section 8; consequently, we are of the view that when the Minister, in his *sub judice* decision, stated that there did not exist "needs" («ανάγκαι») justifying the route concerned, he was using a general term encompassing the relevant considerations under both paragraph (c) and paragraph (d) of subsection (2); we have not been satisfied, and nothing was shown to establish, that the position was otherwise.

We would add that on the basis of the material on record it appears that it was reasonably open to the Minister to dismiss the appeal made to him and to uphold the decision of the Licensing Authority.

1972  
Mar 14  
—

ANDREAS  
PSALTIS

v.

REPUBLIC  
(MINISTER OF  
COMMU-  
NICATIONS  
AND WORKS  
AND ANOTHER)

In the light of all the foregoing we have decided to dismiss this appeal; but, as the trial judge made no order as to the costs of the proceedings and in view of the fact that the *sub judice* decision of the Minister of Communications and Works, though duly reasoned as it is, could none the less be framed in more explicit terms, we are not prepared to penalize the appellant, for pursuing to the very end the judicial process available to him, by an order against him regarding the costs of this appeal.

*Appeal dismissed. No  
order as to costs.*