

C. P. Sikh Regular Motor Service and Others

Vs

The State of Maharashtra and Others

Krishan Gopal Transport Co. and Others

Vs

The State of Maharashtra and Others

Kunjilal Hanumanlala Jaiswal and Others

Vs

The State of Maharashtra and Others

Lokpriya Motor Service and Others

Vs

The State of Maharashtra and Others

M/S. New Datar Transport Co. (P.) Ltd.

Vs

The State of Maharashtra and Others

R. G. Soni and Others

Vs

The State of Maharashtra and Others

Surajmal Bhupal Sharma and Others

Vs

The State of Maharashtra and Others

Premsewa Regulars Motor Service, Nagpur and Others

Vs

The State of Maharashtra and Others

Deshmukh Bandhu Motor Service Transport Co. and Others

Vs

The State of Maharashtra and Others

Civil Appeals Nos. 614 and 615, 616 to 632, 633-634, 635, 663, 664-668, 669-679, 688-718 and
SLP (Civil) 1389-1390 of 1974

(CJI A. N. Ray, K. K. Mathew, V. R. Krishna Iyengar JJ)

05.09.1974

JUDGMENT

MATHEW J -

1. In these civil appeals and petitions for special leave to appeal the questions for consideration are practically the same. They are therefore disposed of by this common judgment.
2. The appellants filed petitions before the High Court of Bombay (at Nagpur and Bombay) challenging the validity of a scheme framed under Section 68C of the Motor Vehicles Act, 1939 (hereinafter referred to as the 'Act'). The High Court dismissed the petitions and these appeals and petitions for special leave to appeal are directed against those orders.
3. Section 68C under which the scheme was framed occurs in Chapter IVA of the Act. That chapter was added by the Act 100 of 1956 which came into effect from February 16, 1957. The Maharashtra State Road Transport Corporation (hereinafter called 'the Corporation') is a Corporation established for the whole of the State of Maharashtra under Section 3 of The Road Transport Corporations Act, 1950 and it is a 'State Transport Undertaking' within the meaning of Section 68A (b) of the act.
4. By the scheme the Corporation proposes to operate stage-carriage land contract-carriage services in the entire state of Maharashtra and on all routes and portions falling within the said area to the complete exclusion of all other persons subject to the exceptions mentioned in the scheme. The scheme as approved was published in the gazette dated November 29, 1973 and was to come into force with effect from January 1, 1974. It was the validity of this scheme that the appellants challenged before the High Court by their petitions.
5. In these appeals and petitions for special leave to appeal, we are concerned with only two questions, namely, whether the area in relation to which the scheme has been framed should have been specified by a notification in the official gazette by the State Government under Section 2(1) of the Act; and whether the scheme was invalid for the reason that it did not specify the minimum and maximum number of vehicles to be put on a route as also the minimum and maximum trips on each route.
6. It was submitted for the appellants, that no valid scheme under Section 68C could be framed without specifying the area in relation to which the scheme has been framed by a notification by the State Government in the Official gazette. This submission is founded on Section 2(1) of the Act which was inserted in the Act by Act 56 of 1969 :
 2. In this Act, unless there is anything repugnant in the subject or context -
 - (1) 'area' in relation to any provision of this Act, means such area as the State Government may have regard to the requirements of that provision, specify by

notification in the official gazette.

7. Section 68C did not require that the area in relation to which the scheme has been framed should have been specified by notification in the official gazette by the State Government before the insertion of Section 2(1) by the Amendment Act 56 of 1969. Therefore, the question for consideration is whether, after its insertion in the Act, it was necessary for the State Government to have specified the area by notification in the official gazette in order that the corporation may frame a scheme in relation to that area.

8. The appellants contended that wherever the word 'area' occurs in any of the provisions of the Act, the meaning to be given to the word is the one given in Section 2(1) unless there is something repugnant in the context or subject matter and as there is nothing in the context or subject matter in Section 68C, which, by necessary implication, excludes the meaning given in the definition clause to the word 'area' occurring in the section, that meaning must be assigned to the word.

9. On the other hand, the learned Attorney General, appearing for the corporation submitted that the definition clause does not require the State Government to specify the area by the notification in the gazette merely because the word 'area' occurs in the section of the Act. He submitted that it is only if the State Government is of opinion that the provision so requires it, that they need specify the area by a notification in the gazette. In other words, the argument was that in order that the definition clause may come into play, it is necessary that the State Government should form an opinion, having regard to the requirement of the particular section in which the word 'area' occurs, that it is necessary to specify the area by a notification in the gazette.

10. We are not quite sure whether the language of the definition clause is susceptible of the construction contended for by learned Attorney General. We are inclined to think that the discretion that is vested in the State Government is only with respect to specification of the extent of the area in the notification having regard to the requirement of the section in which the word 'area' occurs. That discretion has nothing to do with the necessity or otherwise of a notification specifying the area. In other words, the discretion of the State Government is confined to the specification of the extent of the area, having regard to the requirement of the section where the word 'area' occurs and not to the necessity or otherwise of the notification in the gazette specifying the area.

11. Be that as it may, we do think it necessary to resolve this question in this case as, in our view, the word 'area' occurring in Section 68C does not, in the context require specification by a notification in the gazette by the State Government. To put it differently, we do not think that in the context of Section 68C the word 'area' means an area specified by the State Government in a notification in the gazette in accordance with the substantive part of the definition clause. The context in which the word occurs makes the application of the substantive part of the definition repugnant.

12. Section 3 of the Road Transport Corporations Act, 1950, provides that the State Government may, by a notification in the official gazette, establish a Road Transport Corporation for the whole or any part of the State. Section 18 of that Act provides that it shall be the general duty of a Corporation so to exercise its powers as progressively to provide an efficient, adequate, economical and properly co-ordinated system of road transport services in the State or part of the State for which it is established and in any extended area and Section 19 specifies the powers of the Corporation. Sub-section (2)(c) of that section empowers the Corporation to prepare schemes for the acquisition of, and to acquire the whole or any part of any undertaking of any other person to the

extent to which the activities thereof consist of the operation of road transport services in that State or in any extended area.

13. Section 68C of the Act says :

Where any State transport undertaking is of opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road transport service, it is necessary in the public interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State Transport undertaking, whether to the exclusion, complete or partial, of other persons or otherwise, the State transport undertaking may prepare a scheme giving particulars of the nature of the services proposed to be rendered, the area or routes proposed to be covered and such other particulars respecting thereto as may be prescribed, and shall cause every such scheme to be published in the official gazette and also in such other manner as the State Government may direct.

14. It is clear that a scheme under Section 68C can be framed only in relation to an area or route or part thereof (see *Dosa Satya Narayanmurty v. The Andhra Pradesh State Road Transport Corporation* ((1961) 1 SCR 642, 664 : AIR 1961 SC 82 : (1963) 1 SCJ 539)).

15. We do not think that the word 'area' occurring in Section 68C has the same meaning as the word 'route' in the section. When Section 68C talks of 'area' or 'route' or part thereof, it is not to be presumed that the Legislature made no distinction between 'area' and 'route'. No doubt, a route must necessarily run over an area, but for that reason, one cannot equate an area to a route. An area simpliciter is certainly not a route. It's potentially to become a route would not make it a route. A route is an area plus something more. At any rate, there is no justification for making an assumption that the Legislature, in the context of Section 68C did not want to make any distinction between 'area' and 'route'. In *Dosa Satyanarayanamurty's* case (supra), Subba Rao, J. observed :

Under Section 68C of the Act the scheme may be framed in respect of any area or a route or a portion of any area or a portion of route. There is no inherent inconsistency between an 'area' and a 'route'. The proposed route is also an area limited to the route proposed. The scheme may as well propose to operate a transport service in respect of a new route from point A to point B and that route be an certainly be an area within the meaning of Section 68C.

16. There can be no dispute that a route postulates an area. But, for that reason, as we said it is difficult to maintain that the Legislature made no distinction between the two. In Section 2(1), the definition is only of the word 'area'. That definition does speak of any route. By Act 56 of 1969, the Legislature has defined the expression 'route' in Section 2(28A). That reads :

'route' means a line of travel which specifies the highway which may be traversed by a motor vehicle between one and another.

Certainly, the line of travel which specifies the highway which may be traversed by a motor vehicle is an area, but nevertheless, the two are distinct. Otherwise, the Legislature would not have found it necessary to provide a separate definition clause for 'route'.

17. If, therefore, in respect of a scheme in relation to a route or routes. It is not necessary that the State Government should make a notification specifying the route or routes, we fail to understand the reason why the State Government should specify the area by a notification in the gazette for framing a scheme in relation to an area. In other words, it is impossible to understand the rational

behind the distinction why when a scheme is framed in relation to an area a notification in the gazette specifying its extent is necessary and why when it is framed in relation to a route a notification specifying the route or routes is not required. When section 68C says "where any State transport undertaking is of opinion that it is necessary in the public interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking", it means, in the context of the present case, that the corporation has to form an opinion whether it is necessary in the public interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking", it means, in the context of the present case, that the Corporation has to form an opinion whether it is necessary in the public interest that road transport service should be nationalised in relation to any area or route. We are aware of a plausible construction of the section which would enable the Corporation to form an opinion only as to the necessity in the public interest of a scheme in relation to an area specified in the public interest of a scheme in relation to an area specified in the notification by the State Government. But we think, it comports more with the legislative purpose to hold that the 'State transport undertaking' is invested with the discretion to select the area in relation to which it will frame the scheme than to hold that that discretion has been vested in the State Government.

18. If, in forming an opinion with respect to the necessity of a scheme in relation to a route or routes, the power of 'State transport undertaking and, therefore, of the Corporation, is untrammelled by an outside authority like the State Government, we fail to see why it cannot from an option as to the necessity of a scheme in relation to any area in the State.

19. As the Corporation here was established for the whole of the State of Maharashtra, it was within its power to form an opinion as to necessity of a scheme in relation to any area or route within the State. We hold that there is no substance in the first contention of the appellants.

20. The second point urged on behalf of the appellants was that a scheme framed under Section 68C should specify all the necessary particulars and as it did not specify the minimum and maximum number of vehicles to be put on a route as also the minimum and maximum trips in respect of each route, the scheme was invalid. The decision of this Court in *B. H. Aswathanarayan Singh v. State of Mysore* ((1966) 1 SCR 87, 92 and 94 : AIR 1965 SC 1848 : (1965) 2 SCJ 824) was relied on in support of this contention.

21. In the first place, this contention was not taken before the State Government in the objections filed by the appellants to the scheme. Quite apart from that, we think that there is no factual foundation for the contention. The approved scheme specifies the minimum and maximum number of vehicles to be put on a route as also the minimum and maximum trips in respect of each route.

22. We dismiss the appeals with costs. We also dismiss the petitions for special leave to appeal.

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