

(1991) 03 AP CK 0032

In the Andhra Pradesh High Court

Case No : Writ Appeals No's. 50, 54, 65 and 98 of 1991 and Oral S.C.L. Ps.

A.P.S.R.T.C.

APPELLANT

Vs

The Government of India and others

RESPONDENT

Date of Decision : 06-03-1991

Acts Referred:

Arms Act, 1959 — Section 15
Central Sales Tax Act, 1956 — Section 9(2)
Companies (Amendment) Act, 1956 — Section 647, 658
Companies Act, 1913 — Section 244, 3
Constitution of India, 1950 — Article 133, 133(1)
Electricity (Supply) Act, 1948 — Section 71
Electricity Act, 1910 — Section 7
General Clauses Act, 1897 — Section 24, 6
Hindu Succession Act, 1956 — Section 7(3)
Income Tax Act, 1982 — Section 297(2)
Motor Vehicles (Amendment) Act, 1989 — Section 217(4)
Motor Vehicles Act, 1939 — Section 68(A), 68(B), 68(C), 68(D), 68(E)
Motor Vehicles Act, 1988 — Section 100, 101, 102, 103, 104

Citation : AIR 1992 AP 109 : (1991) 2 ALT 48

Hon'ble Judges : Jagannadha Rao, J;Eswara Prasad, J

Bench : Division Bench

Advocate : D. Reddappa Reddy, D. Vijaya Kumar, for Central Govt. and Govt. Pleader, for the Appellant; M. Vinobhadevi, P. Rajagopalachary and T . Venkata Ramana, for the Respondent

Judgement

Jagannadha Rao, J.—The question that arises in the batch of writ Appeals is whether schemes pending under S. 68E of the Motor Vehicles Act, 1939 for modification of existing schemes lapse and are not saved by S. 217 of the Motor Vehicles Act, 1988. In W.A. Nos. 50 and 98 of 1991 the draft schemes were initiated by the A.P. State Road Transport Corporation (hereinafter called the A. P. S. R. T. C.) before 1-7-1989, the date of commencement of the new Act, objections were called for and filed but they were heard and approved after 1-7-1989 by the Government under S. 100 of the new Act after 1-7-1989. In W.A. Nos. 54 and 65 of 1991, the draft schemes were initiated by the A.P.S.R.T.C.

before 1-7-1989, objections were called and filed and a date of hearing of the matters before the concerned Minister was given. It was at that stage that the writ petitions out of which these appeals arise, were filed, stay of all further proceedings obtained and later the writ petitions were allowed by the learned single Judge holding that u/s 217(2)(e) of the new Act only original draft schemes (i.e., not draft schemes for modification) issued u/s 68C of the old Act continue after 1-7-1989 so as to be disposed of u/s 100 of the new Act after that date and that draft schemes issued u/s 68E for modification of old schemes necessarily lapse, as no provision was made for their continuance in Section 217(2) of the new Act. The learned Judge also held that a draft scheme u/s 68E for modification of an existing scheme cannot be treated as a "scheme made u/s 28C" so as to fall within Section 217(2)(e) so that it could be disposed of u/s 100 of the new Act. The judgment under appeal does not deal with Section 217(4) of the new Act which states that mention of particular matters in S. 217 shall not be held to prejudice or affect the general application of S. 6 of the General Clauses Act, 1897 with regard to the effect of repeals. Nor have the writ petitioners relied --in the context of S. 6 of the General Clauses Act -- upon Section 217(1) of the Act which corresponds to S. 24 of the General Clauses Act.

2. Before us, it was contended for the A.P.S.R.T.C. by Sri D. Reddeppa Reddy, that firstly, a draft scheme u/s 68E is equivalent to a "scheme made under S. 68C" in view of the language in Section 68E stating that any scheme for cancellation or modification shall be published by following the "procedures laid down in Section 68C", "as if the proposal were a separate scheme". The alternative contention is that, if a draft scheme issued u/s 68E and published before 1-7-1989 could not be equated or treated as "scheme made u/s 68C" so as to be brought under S.217(2)(e) to be disposed under S. 100 of the new Act, the appellant can fall back on S. 217(4) which expressly permits the general application of the General Clauses Act, 1897 notwithstanding the enumeration of specific items in Section 217(4).

3. On behalf of the respondents (writ petitioners), it is argued by Sarvasri E.P.K. Sikamani, T. Ventakata Ramana, K. Manga-chari and Smt. G. Vinobha Devi that a draft scheme u/s 68E which proposes to modify an existing scheme could not be equated with a "scheme made u/s 68C" and therefore they could not come u/s 217(2)(e) so that they could be disposed of u/s 100 of the new Act, and that a further consequence of absence of reference to scheme pending u/s 68E in Section 217(2) would, as held by the learned single Judge, lead to the lapsing of the schemes pending u/s 68E as contrasted to scheme made u/s 68C. Alternatively, it is submitted that even u/s 217(4) the draft schemes made u/s 68E cannot be saved under any of the provisions of Section 6 of the General Clauses Act, 1897. It is further contended that even if such draft schemes could be saved u/s 217(4), inasmuch as they also come u/s 217(1), they cannot continue, after 1-7-1989 as there is "inconsistency" between the provisions of Section 68E of the old Act and Section 102 of the new Act for, while under the old Act the draft scheme could be initiated by the A.P.S.R.T.C. and published in the

Gazette, the new Act required that even the initiation of the scheme is to be made by the Government and again objections could now be filed by any persons. Further under the new Act, the final scheme is to be published in newspaper also in addition to being published in the Gazette.

4. In the light of the above submissions, the following points arise for consideration :

(1) Whether for purposes of Sec. 217(2)(e), draft schemes issued before 1-7-1989 u/s 68E for modification of existing schemes could be included within the expression "any schemes made under S. 68-C", so as also to be dealt with under S. 100 of the new Act in the same manner as schemes pending under S. 68-C?

(2) Alternatively, whether draft schemes issued under S. 68-E before 1-7-1989 would not lapse because of the general saving clause in S. 217(4) of the new Act read with S. 6 of the General Clauses Act, 1897?

(3) Whether, in case the draft schemes issued under S.68-E before 1-7-1989 are saved under S. 217(4) (corresponding to S. 24 of General Clauses Act) read with S. 6 of the General Clauses Act, 1897, they would not continue after 1-7-1989 because of any "inconsistency" in the provisions of the new Act in the context of Sec. 217(2)(a) ?

5. Before dealing with the points, we shall refer to the provisions of the old and new Acts. The old Motor Vehicles Act, 1939 contains a group of provisions in Chapter IV-A in regard to nationalised transport services. Section 68-B gives overriding effect to the provisions of the Chapter. Section 68-C deals with preparation and publication of "scheme" of road transport service of a State Transport Undertaking (hereinafter referred to as "STU"). Under S. 68-B if the STU is of the 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 service 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 STU, whether to the exclusion, complete or partial, of other persons or otherwise, the STU may prepare a scheme giving particulars of the nature of the services proposed to be rendered, the area or route proposed to be covered and such other particulars respecting thereto as may be prescribed, and shall cause such scheme to be published in the Official Gazette and also in such other manner as the State Government may direct. Objections to the scheme were to be filed under S. 68-D by existing operators, or associations representing persons interested in the provision of road transport facilities and by any local or police authority. The State Government was to give a hearing into the objections and approve or modify the scheme, which is then to be published in the Official Gazette. Under S. 68-E of the old Act, a scheme published under S.68-D(3), could be cancelled or modified by the STU. S. 68-E reads as follows : (in so far as it is relevant for our purpose):

"S. 68-E : Cancellation or modification of scheme:

(1) Any scheme published under subsection (3) of Section 68-D may at any time be cancelled or modified by the STU and the procedure laid down in Section 68-C and Section 68-D shall, so far as it can be made applicable, be followed in every case where the scheme is proposed to be cancelled or modified as if the proposal were a separate scheme:

Provided that....."

6. Sub-clause (2) of S. 68-E enable the State Government itself to modify any scheme made under S.68(D) : Under Rule 315, every scheme and every scheme proposing modification prepared by the STU shall be published in Form STV or STUM in the A.P. Gazette. The approved schemes are to be published under Rule 316-A is Form STUMS. Form STUM (Form 51) proposing modification says it is published as required by S. 68-C read with S. 68-E.

7. Coming to the new Act, the corresponding Chapter is Chapter VI and Ss. 97 to 108 correspond to Ss. 68-A to 68-J of the old Act. Under S.98, the provisions of the Chapter VI override Chapter V and other laws and is similar to S. 68-B of the old Act. Section 99 corresponds to S.68-C with this difference that it is the State Government and not the STU that initiates the draft proposals for formulation of a scheme. Section 100 deals with disposal of objections -- which could be filed now by "any person" and after a hearing is given the final scheme is to be published in the Gazette as also in not less than one newspaper in the regional language. Sub-section (4) to S. 100 is again new and prescribes a period of one year for the Government to publish a scheme as an approved scheme -- from the date of publication of the proposal in the Gazette and otherwise, the proposal "shall be deemed to have lapsed". Explanation provides for exclusion of periods covered by orders of stay or injunction. S. 102 deals with cancellation or modification of scheme and reads as follows:

"S. 102 ""Cancellation or modification of scheme:--

(1) The State Government may, at any time, if it considers necessary, in the public interest so to do, modify any approved scheme after giving

(i) the STU and

(ii) any other person, who in the opinion of the State Government is likely to be affected by the proposed modification, an opportunity of being heard in respect of the proposed modification.

(2) The State Government shall publish any modification proposed under subsection (i) in the Official Gazette and in one of the newspapers in the regional languages circulating in the area in which it is proposed to be covered by such modification, together with the date, not being less than thirty days from such publication in the Official Gazette, and time and place at which any representation received in this behalf will be heard by the State Government."

In the present case, as already stated above, the draft schemes for modification were published in Form STU M (from 51) referring to both Ss. 68-C and 68-E and objections were invited and were either approved and not published or awaiting approval by Government. It was at that stage that the new Act came into force.

8. The repeal and savings provision is contained in S. 217 of the new Act. As the decision in the entire batch turns upon the said provision it is necessary to read the same:

"S. 217 : Repeal and Savings :(1) The Motor Vehicles Act, 1939 and any law corresponding to that Act in force in any State immediately before commencement of this Act in that State (hereinafter in this section referred to as the repealed enactments) are hereby repealed.

(2) Notwithstanding the repeal by subsection (1) of the repealed enactments,--

(a) any notification, rule, regulation, order or notice issued, or any appointment or declaration made, or exemption granted, or any confiscation made or any penalty or fine imposed, any forfeiture, cancellation or anything done or any other action taken under the repealed enactments, and in force immediately before such commencement shall, so far as it is not consistent with the provisions of this Act, be deemed to have been issued, made, granted done or taken under the corresponding provisions of this Act;

(b) to (d)

(e) any scheme made u/s 68-E of the Motor Vehicles Act, 1939 or under the corresponding law, if any, in force in any State and pending immediately before the commencement of this Act shall be disposed of in accordance with the provisions of Section 100 of this Act;

(f)

(3) Any penalty payable under any of the repealed enactments may be recovered in the manner provided by or under this Act, but without prejudice to any action already taken for the recovery of such penalty under the repealed enactments.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeals."

9. The learned single Judge, as already stated, after referring to S. 217(2) held that a draft scheme under S. 68-C was saved because of sub-clause (e) and draft schemes under S. 68-E for modification of existing schemes did not fall within the words "any scheme made u/s 68-C" in that sub-clause and consequently, all draft schemes for modification in regard to which no final notification was published, would automatically lapse on 1-7-1989.

10. Point No. 1 :--The contention for the STU is that a proposal for modification under S.68-E of the old Act can be made only by way of a scheme and not

otherwise and that inasmuch as "procedure laid down in S. 68-C and S. 68-D" is to be followed, so far as it can Be made applicable and also "as if the proposal were a separate scheme", the said proposal also falls within the scope of S. 217(2)(e) to be disposed under S. 100 of the new Act.

11. We have already set out the relevant provisions of S. 68-E. That section clearly states that for modification of an existing scheme, the STU is to follow "the procedure laid down in S. 68-C and S. 68-D" so far as it can be made applicable. The section does not stop there. It states that that procedure will be followed.

"as if the proposal were a separate scheme" Rule 315 states that every scheme "for road transport service and every scheme proposing modification of an approved scheme prepared by STU shall be published by the STU in Form STU or STUM as the case may be in the A.P. Gazette. Form STUM (No. 51) is relevant for our purpose and in fact, the draft schemes covered by these four writ appeals are published in that form. It reads:

"Whereas, the STU is of opinion that the scheme of road transport service in relation toapproved by the Government in Notification No..... requires modification,

AND whereas, the STU has prepared a scheme in modification of the approved scheme referred to above, the modified scheme along with the approved scheme is hereby published as required by Sec. 68-C read with Sec. 68-E of the Motor Vehicles Act, 1939.

Approved scheme

Modified scheme

1. Route

....

....

2. Area

....

....

"Any other information the STU desires to submit

....

....

Station :

Date :

STU"

It is significant to note that the Form refers to S. 68-C in the main. From the aforesaid Rule 315 and the Form 51, it is clear that the proposal for modification is called a "scheme" in modification of approved scheme and is published as required by S. 68-C read with S. 68-E. The form also refers to the contents of the "Approved Scheme and the "Modified scheme" side by side.

12. In our view, the proposal under S. 68 E for modification of an approved scheme is also a "scheme made under S. 68-C" inasmuch as, unless it is published in the form of a scheme under S. 68-C, it does not have the efficacy or status or power to modify an existing scheme. It cannot, in. our view, be said that such a proposal is merely a scheme under S. 68-E and not a scheme under S. 68-C also simultaneously. In fact, while S. 68-E confers the power of modification of an existing scheme, the starting point is the formation of opinion under S. 68-C for modification. That is the only effective method to modify a scheme. For example, a resolution of the Board of Directors of the STU will not be sufficient unless followed up by S.68-C procedure. Further, in our view, the words as if create a legal fiction. To create a legal fiction, it is not necessary for the Legislature to use the words "shall be deemed to be a scheme under Sec. 68-C". The words "as if" used in S. 68-E would lead to the same result.

13. In The Dargah Committee, Ajmer Vs. State of Rajasthan, the statute provided that any money recoverable by the Committee under S. 22(1)

"shall be recovered as if it were a tax levied by the Committee"

The question arose whether an appeal lay under S. 93 in the same manner as an appeal against a tax. It was held, an appeal lay. The Supreme Court observed that "full effect must be given to this legal fiction, and in consequence, as a result of the said fiction, the recovery procedure, prescribed by Section 234 (for taxed) becomes available to the Committee, and so would the right of making an appeal be available to the appellant.

14. We are, therefore, of the view, on a reading of S.68-E, Rule 315 and Form STUM (No. 51) that though the power to modify can be traced to S. 68-E the scheme for modification is always "a scheme made under S. 68-C" of the Act and cannot be said to be "a scheme outside S. 68-C". Therefore, the draft schemes for modification here are covered by S. 217(2)(e) of the new Act and have to be disposed of under S. 100 of the new Act.

15. It was then pointed out for the writ petitioners that a Division Bench of this Court consisting of P. A. Choudary & Lakshmana Rao, JJ. had observed in B. Rama Rao Vs. The Secretary, Regional Transport Authority, Srikakulam and Another, that a proposal issued under S. 68-E could not be equated with a scheme under S.68-C and that the provisions of S.68-F (1C) cannot be invoked. It is argued that, therefore, such schemes for modification cannot be brought within S. 217(2)(e) of the new Act. In the above case, there was an "approved

scheme under which the STU was rendering services holding pucca permits. Then a proposal for modification was issued under S.68-E. On the ground that the STU did not apply for temporary permits under S.68-F. (1A) which it could have, if the proposal were a scheme under S.68-C, certain private operators claimed a right for grant of temporary permits under S. 68-F (1C). The said claim was rejected by the Division Bench on the ground that when the STU was already rendering services as per the pucca permits issued under the existing scheme, there was neither the scope nor the need for the STU to apply for temporary permits under S.68-F(1A). That was a sufficient answer to the point raised. But the learned Judges also made certain broad observations that a proposal under S. 68-E for modification could not be equated with a proposal under S.68-C so as to require the STU to file applications for grant of temporary permits under S. 68-F (1 A) which, if not filed, could otherwise enable the issue of temporary permits to private operators under S. 68-F (1C). In our view, these observations are far wider and obiter and were not necessary for purpose of that case. In fact, whenever a fiction is created by statute, the Court is also to find out whether the fiction is created for achieving a definite purpose. (State of T. C. v. Shanmugha Vilas Cashew Nut Factory, AIR 1953 Trav Co. 333). For example, the words "as if" used in S. 7(3) of the Hindu Succession Act, 1956 were held to create a fiction for a limited purpose. M.K. Balakrishnan Menon Vs. The Assistant Controller of Estate Duty-cum-Income Tax Officer, Ernakulam, . Section 9(2) of the Central Sales Tax Act, 1956 (before its amendment in 1976) was also treated as creating a fiction for a limited purpose. Khemka and Co. (Agencies) Pvt. Ltd. Vs. State of Maharashtra, . Here the fiction is created for the purpose of issuing a draft scheme which will effectively modify the existing scheme and not for saying that the pucca permits under which the STU is plying, must be deemed to have become ineffective, requiring fresh temporary permits under S. 68-F (1 A). We, therefore, respectfully dissent from the broad observations made by way of obiter in B. Rama Rao Vs. The Secretary, Regional Transport Authority, Srikakulam and Another, that a proposal made under S. 68-E cannot be equated with a scheme made under S. 68-C. We may also point out that it was not necessary for the Division Bench to have dissented from the judgment of the Madhya Pradesh High Court in Madhya Pradesh State Road Transport Corporation Vs. The State Transport Authority, M.P., Gwalior and Another, . There, G. P. Singh, J, (as he then was) and Dube, J. held that a proposal under S. 68-E for modification will amount to a scheme if, having regard to its nature, the proposal carries out the object of the nationalisation. We may add that even a variation of frequency of services by the STU, has been held to amount to a substantial modification of an existing scheme, thereby requiring that procedure under S. 68-E be followed. (See Dosa Satyanarayanamurthy etc. Vs. The Andhra Pradesh State Road Transport Corporation, . Once that is necessary, the modification is to be issued in Form STUM (No. 51 under S. 68-C read with S. 68-E only and not in any other manner.

16. It is then argued for the writ petitioners (respondents) that among the words

"any scheme made under S. 68-C" used in S. 217(2)(e) of the new Act, the word "made" is of special significance and is used to denote an original scheme under S. 68-C and not one for modification; If, as already stated, the words "as if" in S. 68-E are given due importance, a proposal for modification made in exercise of power under S.68-E cannot be in any form other than a scheme "made" under S. 68-C so as to Have the same efficacy as an original scheme. Every scheme for modification is necessarily "made" under S.68-C as is clear from Rule 315 and Form STUM (No. 51) inasmuch as the procedure to be followed is by issuing a scheme under S. 68-C.

17. It is again argued that Parliament deliberately omitted proposals under S. 68-E for modification from S. 217(2)(e) inasmuch as, even if such proposals lapse, fresh proposals for modification could be issued, at any time, under S. 102 of the new Act. In our view, S. 102 merely corresponds to S. 68-E of the old Act and even under the old Section, the proposal for modification could be issued "at any time". Therefore, S. 102 cannot be treated as a new provision intended to bring back to life, scheme for modification issued under S.68-E of the old Act which have lapsed.

18. We accordingly hold that S. 217(2)(e) of the new Act covers not only proposals issued for the first time under S. 68-C but also proposals under S.68-E for modification of existing schemes issued under S.68-C inasmuch as the proposals under S.68-E are by fiction deemed to be proposals under S. 68-C for a specified purpose and as they are also issued under S. 68-C read with rule 315 in Form STUM (No. 51). Point No. 1 is decided accordingly.

19. Point No. 2:-- This point does not arise, if we are correct on point No. 1. It arises only alternatively. The question is whether, if draft schemes for modification issued in exercise of powers under S. 68-E do not fall under S. 217(2)(e), such draft schemes would lapse. The learned single Judge held that they would lapse, inasmuch as the item regarding proposals under S. 68-E is not enumerated among clauses (a) to (f) of S. 217(2) of the new Act.

20. This point mainly turns upon the provisions of S. 217(4) read with the provisions of S. 6 of the General Clauses Act, 1897. The repeal, it is argued for the appellants, does not affect the rights accrued to the S.TU and the proceedings pending before the State Government under S. 68-D of the old Act.

21. In our view, this submission for the appellants is correct for the reasons given below. At the outset, it will be convenient to refer to sub-clause (4) of S. 217 of the new Act. It reads:

"S. 217(4) : The mention of particular matters in this section shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897, with regard to the effect of repeals."

Therefore, mention of particular matters in Clauses (a) to (f) of S. 217(2) does not mean that other matters or actions taken before 1989 would lapse

automatically. Still S. 6 of the General Clauses Act would be attracted.

22. In the context of S. 217(4), it is necessary to refer to S. 6 of the General Clauses Act, 1897. It reads (so far as material for our purpose):

"S. 6 : Effect of repeal:-- Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not-

(a)

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder, or

(c) affect any right, privilege, obligation or liability acquired or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, or continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed."

In view of S. 217(4) of the new Motor Vehicles Act, 1988 the above provisions must be read into new Act. The provisions of S. 6 would apply as if the new Act has not been passed -- as expressly stated therein.

23. From the classic judgment of B. K. Mukherjee, J. (as he then was) in 1955 in *State of Punjab v. Mohar Singh* AIR 1955 SC 84 to the recent judgment of Sabyasachi Mukherjee, J. (as he then was) in *Commissioner of Income Tax Vs. Shah Sadiq and Sons*, it is clear that the line of inquiry, in case of repeal, must be to find out what is destroyed by the new Act rather than to see what is saved. In other words, unless the effect of the old law is destroyed expressly or by necessary application, anything done or rights, privileges, investigations, legal proceedings or remedies under the old Act continue to be in force as if the new Act has not been passed. In the latter case in *Commissioner of Income Tax Vs. Shah Sadiq and Sons*, . In the context of Section 297(2) of the Income Tax Act and even in the absence of a provision similar to S. 217(4) of the new Motor Vehicles Act, Sabyasachi Mukherjee, J. (as he then was) observed (at p. 1221):

"..... it is not possible to accept the submission that whatever was not saved was destroyed.....

In this case, the "savings" provision in the repealing statute is not exhaustive of the rights which are saved or which survive the repeal of the statute under which

such rights had accrued. In other words, whatever rights are expressly, saved by the "savings" provision stand saved. But, that does not mean that rights which are not saved by the "savings" provision are extinguished or stand ipso facto terminated by the mere fact that a new statute repealing the old statute is enacted. Rights which have accrued are saved unless they are taken away expressly. This is the principle behind S. 6(c), General Clauses Act, 1897... it is not necessary to save a right expressly in order to keep it alive after the repeal Section 6(c) saves accrued rights unless they are taken away by the repealing statute"

Therefore, unless the new Act expressly (or by necessary implication) takes away or destroys anything done or the accrued rights or privileges or the investigation, legal proceeding or remedy in respect thereof, those that have accrued continue in operation even after the repeal. Merely because the rights or privileges, or anything done or investigations, legal proceedings or remedies under the old Act are not expressly saved, they cannot be said to have been destroyed by the new Act.

24. It is argued for the writ petitioners that inasmuch as sub-clause (e) of Sec. 217(2) "saves" draft schemes made under S. 68-C, only those draft schemes are saved and not draft schemes for modification pending on 1-7-1989. In our view, this submission is not correct. Firstly, it is not correct to state that but for sub-clause (e) of Sec. 217(2), draft schemes made under S. 68-C would not have been saved. As stated by Sabyasachi Mukharji, J. (as he then was), in the passage referred to above, everything done, any right or privilege, and any investigation, legal proceeding or remedy under the old Act are saved because of S. 6 of the General Clauses Act, unless destroyed by the new Act. Sub-clause (e) of S. 217(2) merely states that the pending draft schemes made under S. 68-C -- instead of being disposed of under the provisions of the old Act -- shall be disposed of in accordance with the procedure under S. 100 of new Act. If a draft scheme does not fall under sub-clause (e) of S. 217(2) it would mean that while it is saved under S. 6 of the General Clauses Act, 1897, it will also have to be disposed of under the old Act, at the most.

25. It is contended for the writ petitioners that the reference to draft schemes under S. 68-C of the old Act in sub-clause (e) of Sec. 217 of the new Act shows an intention in the new Act not to continue the draft schemes for modification inasmuch as they do not fall within sub-clause of Sec. 217. This is said to be indication of a "contrary intention" in the new Act. This submission again is not correct.

It ignores the presence of S.217(4) which clearly says that the "mention of particular matters in this section shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897, with regard to effect of repeals". In fact, a similar contention was repelled by the Supreme Court in *The Brihan Maharashtra Sugar Syndicate Ltd. Vs. Janardan Ramchandra Kulkarni and Others*, . That case arose in connection with the new Companies

Act, 1956 wherein S. 658 is identical in language with S.217(4) of the new Motor Vehicles Act, namely, that the mention of particular matters in Ss. 645 - 657 or any other provision, shall not prejudice the general application of S. 6 of the General Clauses Act. It was held that merely because S. 647 makes a particular provision for applying the old Act to a winding up commenced under that Act, it does not indicate an intention that S. 6 of the General Clauses Act is not to apply. Similarly, merely because of sub-clause (e) to S. 217(2), it cannot be said that a contrary intention is to be presumed in respect of draft schemes not falling under S. 68C. In fact, it was held in *The Brihan Maharashtra Sugar Syndicate Ltd. Vs. Janardan Ramchandra Kulkarni and Others*, that proceeding under S. 153-C of the repealed Act or the jurisdiction of the District Court under the old Companies Act, 1913 was not affected.

26. That brings us to another submission for the writ petitioners that a draft scheme for modification published in exercise of powers under S.68-E and pending before the State Government along with objections thereto, cannot be considered as "anything duly done" or as equivalent to any "right, privilege" or any "investigation, legal proceeding or remedy". Reference in this connection is made to *M.S. Shivananda Vs. Karnataka State Road Transport Corporation and Others*, to say that a mere "hope or expectation" of acquiring a right or "liberty to apply for acquiring a right" is not sufficient. Reference is also made to *Director of Public Works v. H. P. Sang* (1961) 1 All ER 721 (PC) to say that if a right is given in respect of which an investigation or legal proceeding is necessary, a distinction is to be made;

"between an investigation in respect of a right and investigation which is to decide whether some right should be or should not be given."

and that on repeal, the former is preserved but not the latter. Reliance for the Writ petitioners is also placed on *Bansidhar and Others Vs. State of Rajasthan and Others*, to say that the right must have "accrued" or have been "acquired" under the repealed law and that it shall not have been merely an "inchoate" right or a mere "hope or expectation of acquiring a right"; further it is argued relying upon *Abbott v. Minister of Lands* (1895 AC 425 and *G.O. G. Odgen Industries Pvt. Ltd. v. Lucas* (1969) 1 All ER 121 that a mere right existing on the date of repeal to "take advantages of provisions of a repealed statute" cannot be an accrued right. It is also argued that the power of the State Government to approve or modify a draft scheme includes the power to reject the same. *Malik Ram Vs. State of Rajasthan*, . It is also pointed out that if the procedure for hearing objections has been followed consistent with principles of natural justice and in a fair manner, the ultimate order passed by the Government is not open to challenge either on the ground that another view is possible or that detailed reasons have not been given for upholding or rejecting the contentions raised by the objectors. *H.C. Narayanappa and Others Vs. The State of Mysore and Others*, .

27. Therefore, the question arises whether on the publication of the draft scheme

in exercise of powers under S. 68-E and after following the procedure in S. 68-C and inviting objections under S.68-D, any rights have "accrued" to the A.P.S.R.T.C., or whether it can be said to be a thing "done"; or whether the draft scheme pending before the State together with objections can be compared to a situation where a lis is pending before a quasi-judicial authority which should be completed and disposed of under the repealed law?

28. Under the old Act, the A.P.S.R.T.C. was entitled to prepare and publish a scheme of road transport service of the Corporation provided it was of the opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road "transport service, it was necessary in the public interest that the service in relation to an area or route be run by it. Section 68-D(1) conferred a right on three types, of persons to file objections before the Government and S. 68-D(2) conferred jurisdiction on the State to dispose of the matter either by way of approving Or modifying the scheme and then under S. 68-D(3) the scheme shall be published in the Gazette.

29. In the land-mark judgment of the Supreme Court in Gullapalli Nageswara Rao and Others Vs. Andhra Pradesh State Road Transport Corporation and Another, , Subba Rao, J. (as he then was) pointed out (at p. 322) that the scheme proposed may "affect individual rights such as the exclusion, complete or partial, of other persons or otherwise, from the business in any particular route or routes." "The said proposal threatens the proprietary right of that individual or individuals." The affected parties file objections before the Government. Therefore,

"the proceeding prescribed is closely approximated to that obtaining in Courts, of justice. There are two parties to the dispute. The State Transport Authority under the Act, threatens to infringe the rights of a citizen. The citizen may object to the scheme on public grounds or on personal grounds

There is, therefore, a proposal and an opposition and the third party, the State Government is to decide that lis and prima facie it must do so judicially..... It therefore appears to us that this is an obvious case where the Act imposes a duty on the State Government to decide the act injudicially in approving or modifying the scheme proposed by the Transport Undertaking,"

and distinguished Franklin v. Minister of Town and Country Planning (1948) AC 87.

30. It is, therefore, clear that the "proceeding" before the State Government is closely approximated to that obtaining in a Court of justice and that the Government is dealing with the proposal of the STU as a quasi-judicial authority, and deciding a lis between the STU and the objectors in a judicial manner while dealing with the question of approving, or modifying the scheme proposed. If a lis is therefore, pending, the question is whether the STU can be said to have "acquired" any rights? In our view, once the APSRTC has exercised its statutory powers S.68-E and formed the requisite opinion that a modification of an existing

scheme is necessary, and once the said prp-posal is published in the A.P. Gazette in the prescribed manner, a "legal right" is acquired by the STU -- without the need to do anything more -- to have the said proposal and such objections as are filed, be considered and disposed of in accordance with S. 68-D of the old Act. The proposal itself gives a legal right inasmuch as it has been held by the Supreme Court in Gullapalli Nageswara Rao and Others Vs. Andhra Pradesh State Road Transport Corporation and Another, that it threatens the proprietary rights of the existing operators. A lis comes into existence and has to be disposed of by the quasi-judicial authority -- namely the State Government. These are definitely in the nature of rights acquired or accrued and which are in force on the crucial date, i.e., 1-7-1989 when the old Act was repealed. Unless there is something in the new Act which "destroys" the said rights, it cannot be said that those rights automatically lapse merely because they are not expressly enumerated in S. 217(2) of the new Act. They continue to be operative because of S. 217(4) read with S. 6 of the General Clauses Act.

31. An identical question arose in The Brihan Maharashtra Sugar Syndicate Ltd. Vs. Janardan Ramchandra Kulkarni and Others, already referred to. In that case, certain share-holders made an application against a Company and its Directors under S. 153-C of the Companies Act, 1913 before 1-4-1956 in the District Court at Poona. After the new Act of 1956 came into force on 1-4-1956, the company applied to the District Court for dismissal of the above said application on the ground that upon the repeal of the old Act, the District Court ceased to have jurisdiction to dispose of the said application. The said request was rejected by the District Court and the High Court which held that the application under the old Act could be disposed of by the District Court. The Supreme Court affirmed the judgment holding that there was nothing in S. 647 of the new Act Of 1956 which indicated an Intention that S. 6 of the General Clauses Act was not to apply and that there was no intention to "destroy" the rights created by S. 153C. It was held that the particular savings provisions in Ss. 645 - 657 of the new Act of 1956 did not mean that other rights were not saved and that S. 658 clarified that notwithstanding the special provisions above-mentioned, the provisions of S.6 of the General Clauses Act, 1897 were not excluded. The facts are very much similar to the facts in the case before us inasmuch as the provisions of S. 658 of the Companies Act, 1956 are similar to those in S. 217(4) of the new Motor Vehicles Act. Merely because the State Government has power to reject the proposal, it cannot be said that there are no rights accrued to the STU. The right to have the matter disposed of by a Court or quasi-judicial authority, is a valuable right. The District Court too, in the last mentioned case, had the power either to accept the application or also to reject it. The fact that that was the case of a Court and the case before us is of a quasi-judicial authority, in our view, makes no difference. Abdul Aziz Ansari Vs. The State of Bombay, .

32. Again in Raja Narayanlal Bansilal Vs. Maneck Phiroz Mistry and Another, , the Supreme Court held, relying on S. 658 of the Companies Act, 1956 that an Inspector appointed under S. 138(4) before 1-4-1956 could proceed with the

investigation under that section even after the new act of 1956 repealed the old Act. In *T.S. Baliah Vs. T.S. Rengachari*, the Supreme Court held that the right to institute a prosecution in respect of an offence under the Income Tax Act 1982 was not taken away by the act of 1961. Though certain specific matters were enumerated in the savings provision in S. 297(2), it was held that that did not mean that the new Act intended that S. 6 of the General Clauses Act, 1897 was excluded. In fact, in the Income Tax Act of 1961, there is no provision corresponding to S. 217(4) of the new Motor Vehicles Act, 1988 or S.658 of the Companies Act, 1956. Even so, it was held that S. 6 of the General Clauses Act, 1897 was not excluded. In *The Gujarat Electricity Board Vs. Shantilal R. Desai*, , the State Electricity Board issued a notice on 8-1-1959 under S. 7 of the Indian Electricity Act, 1910, prior to its amendment in 1959, for purchase of the respondents' Electricity undertaking. The right to purchase the undertaking arose only after the expiration of the period of licence and provided the notice to purchase was issued before the expiry of the licence. The said right was held to have accrued to the Board under the Electricity Act, 1910 before its amendment in 1959. Under S.71 of the Electricity (supply) Act, 1948 rights and options to purchase under Act 9 of 1910 vest in the Board. Though S.71 was repealed before the expiry of the licence period, it was held that, S.6 of the General Clauses Act came to the aid of the Board and it could purchase the undertaking. The new law had not either expressly or impliedly, taken away the right acquired earlier. Recently AIR 1990 SC 761 it was held that the notification under the Kerala Land Acquisition Act 1961 (corresponding to Ss. 4 and 6 of the Central Act, 1894) would continue to be effective notwithstanding the coming into force of the Central Act in that State in 1984 and an award could be made under the Central Act after 1984 in view of S. 6 of the General Clauses Act 1897. All these cases are, therefore, examples where a right accrued before a repeal. Once a right so accrued, a proceeding could be taken in respect of that right even after the repeal. If a proceeding has, in fact, been taken before repeal the same could be pursued even after repeal, unless an intention to negative the applicability of S. 6 of the General Clauses Act, 1897 is shown. Likewise, once a draft scheme is issued for modification of an existing scheme and objections are filed under the old Motor Vehicles Act, before 1-7-1989 the quasi-judicial authority (the State), the same have to be disposed of in accordance with the provisions of the old Act. We have already held that an intention not to apply S.6 of the General Clauses Act is not found in the new Act. In fact S. 217(4) expressly applies that provision.

33. It may in fact, be argued alternatively for the APSRTC that even assuming that no "rights" were acquired by the STU, at least certain "privileges" have been acquired by it. As to what is a "privilege" for purposes of S.6 of the General Clauses Act, 1897 has, in fact, been explained by the Supreme Court in *Isha Valimohamed and Another Vs. Haji Gulam Mohamad and Haji Dada Trust*, . But, in our view, this aspect need not be gone into as we have held certain "rights accrued" to the STU. Nor is it necessary to consider whether the action taken by STU before 1-7-1989 amounted to a "thing done". In *Deep Chand Vs. The State*

of Uttar Pradesh and Others, it was held that an "approved scheme" under the U. P. Transport Services (Development) Act, 1955 was a "thing done" and did not lose its efficacy nor become unenforceable after the implied repeal thereof by the Motor Vehicles (Amendment) Act, 1956 because of S. 6 of the General Clauses Act, 1897, As we have held that a "right accrued" to the STU it is not again necessary to consider whether "anything was done" and the same has not continued after 1-7-1989.

34. Learned counsel for respondents (writ petitioners) however relied upon Kalawati Devi Harlalka Vs. Commissioner of Income Tax, West Bengal and Others, and Third Income Tax Officer, Mangalore Vs. M. Damodar Bhat, as authorities to contend that unless there was express savings, the repeal would operate, it must be noted that the above decisions were explained in T.S. Baliah Vs. T.S. Rengachari, and more recently in Commissioner of Income Tax Vs. Shah Sadiq and Sons, by the Supreme Court and it is now clearly stated that what is not expressly saved does not lapse and that unless destroyed by the repealing Act, the actions, rights, privileges etc. are always saved. Reliance is also placed for the respondents on M.S. Shivananda Vs. Karnataka State Road Transport Corporation and Others, to say that rights which are inchoate cannot be equated with acquired or accrued rights. In this case, the employees of a private operator were held not entitled to be absorbed by the STU inasmuch as, except that the STU issued "call reports", no ex-employee of any private operator had made an application and no test or screening had taken place before the Ordinance of 1976 expired and therefore, no right of absorption could be claimed after the Ordinance was replaced by the Act. This case is also distinguishable. Again, the observations of the Privy Council in Director of Public Works v. Ho Po Sang (1961 (1) All ER 721) would not be attracted. It is true that their Lordships made a distinction between an "investigation in respect of a right" on the one hand and "an investigation which is to decide whether some right should be or should not be given." Here the right to initiate a draft scheme for modification accrued straightway on the preparation and publication of the draft scheme and then a lis arises after the objections are filed and these are to be disposed of by the State, which is a quasi-judicial authority, either approving, modifying or rejecting the draft scheme. But it is not as if the right to initiate a draft scheme for "publication in the Gazette is itself dependent upon the approval of the State. It is only in cases where an investigation is necessary to decide whether some right should or should not be given that the decision of the Privy Council would apply. Here, the position is that the right to initiate a scheme and for considering the objections, has already accrued and the consideration by a quasi-judicial tribunal is for the purpose of quantifying it in the sense as to find out whether the draft scheme is to be wholly approved or partly approved or rejected. Hence the decision of the Privy Council does not help the respondents.

35. In Government of A. P. v. P. P. Narasimloo, (1991) 1 ALT 7 : W. A. 1296/90 dt. 4-12-90, the Division Bench upheld the judgment of the learned single Judge in P. Najsimloo v. Government of A. P. (1990) 3 A LT 502 and held that draft

scheme under S. 68-C were saved and could be disposed of under S, 100 of the new Act in view of S. 217(2)(e) of the new Act. The learned Judges (including the learned single Judge) had not stated that S. 217(2)(e) was the only saving provision and other schemes are not saved.

36. For all the aforesaid reasons, it must alternatively be held that even if S. 217(2)(e) does not apply to a draft scheme for modification issued in exercise of powers under S. 68-E of the old Act, the proposal and the objections have created a lis before a quasi-judicial authority viz., the State before 1-7-1989, and the A.P.S.R.T.C. has acquired a right before 1-7-1989 to have the said lis decided by the State and that right is not destroyed but is saved by S. 217(4) of the new Motor Vehicles Act, 1988 read with S. 6(c) & (e) of the General Clauses Act, 1897. Point No. 2 is decided accordingly.

37. Point No. 3 :-- This point is connected with point No. 2 and arises only if our decision on point No. 1 is not correct.

38. It is argued that there are basic differences between the old Act and the new Act, that while, a draft scheme could be initiated under the old Act by the (Sic) such a draft scheme has not to be initiated by the Government. Therefore it is argued that even if the draft schemes for modification made before 1-7-1989 could be said to continue because of S. 217(4) and S. 6 of the General Clauses Act, as held under point No. 2, they would be hit by S. 217(2)(a) and would lapse because they can be deemed to be draft schemes under the new Act only if they are "not inconsistent" with the provisions of the new Act.

39. We shall, therefore, refer to Clause (a) of S. 217(2). It states that, notwithstanding the repeal, any notification, rule, regulation, order or notice issued, or any appointment or declaration made on exemption granted, or any confiscation made or any penalty or fine imposed, any forfeiture, cancellation or anything done or any other action taken under the repealed enactments and in force immediately before such commencement shall, far as it is not inconsistent with the provisions of the new Act, be deemed to have been issued, made, granted, done or taken under the corresponding provision of the new Act.

40. The abovesaid provision is somewhat similar to S. 24 of the General Clauses, Act, 1897 which provides for "continuance or orders etc. issued under enactments repealed and re-enacted". S.24 is attracted to every Central Act which is repealed and re-enacted "with or without modification" and also contains the words "so far as it is not inconsistent with the provisions re-enacted" which are, more or less found in S. 217(2)(e) of the new Motor Vehicles Act, 1988 and says S. 24 would apply "unless it is otherwise expressly provided". We do not find any provision in the "new Motor Vehicles Act, 1988 expressly stating that Section 24 of the General Clauses Act, 1897 does not apply. Therefore Section 217(2)(a) must be read as a provision ex abundanti cautela and that Section 24 of the General Clauses Act has not been expressly excluded.

41. The purpose of Section 217(2)(a) of the new Act as well as of Section 24 of the General Clauses Act is to see that after the repeal of the old Act, the notifications, rules, etc. issued under the old Act do not cease to apply before adequate provision is again made under the new Act. Otherwise there will be serious hiatus. That is why, Section 24 uses the further words "continue in force" before the words "and be deemed". The absence of the words "continue in force" in Section 217(2)(a) does not, in our view, assume much importance. This is clear from the words "in force immediately before such commencement" used in Section 217(2)(a). Therefore the emphasis is on continuance in force after repeal. Hence Section 217(2)(a) has to be construed in the same manner as Section 24 of the General Clauses Act inasmuch as the purpose of these provisions is the same.

42. Section 217(2)(a) creates a legal fiction when it says that notifications, rules etc. issued under the old Act shall be deemed to have been issued etc. under the corresponding provisions of the new Act. Therefore, one should search whether there are any provisions in the new "Act "corresponding" to the . provisions in the old Act. Once there is such a corresponding provision in the new Act, the notification, rules etc. issued under the old Act must be deemed to have been issued under the corresponding provision of the new Act. What is required is the existence of a "corresponding provision" and not the existence of an identical provision. Sections 102 of the new Act corresponds to Section 68-E of the old Act. Likewise Section 99 corresponds to Section 68-C. Therefore, any notification issued in exercise of powers U/S.68-E and in the manner provided by S.68-C, must be deemed to have been issued in exercise of powers u/S. 102 and also as if issued following the procedure under S. 99 of the new Act. In other words, even though initiated by the STU prior to 1-7-1989 it must be deemed to have been initiated by the Government. The question however is as to what is the effect of the words "so far as it is not inconsistent with the provisions of this Act". We have already stated that the provision in S. 217(2)(a) is similar to S. 24 of the General Clauses Act and that the words "in force immediately before such commencement" in S. 217(2)(a) would necessarily deal with continuance of the notifications etc. after the repeal. That would require reading the words "continue in force and" before the words "be deemed to have been issued". The very purpose of S. 217(2)(a) -- like S. 24 of the General Clauses Act, is to see that there is no hiatus, and that the notifications, rules etc. issued under the old Act do not automatically lapse but are continued after repeal also. If that be the true purport of S. 217(2)(a), the words "so far as it is not inconsistent with the provisions of this Act" have a limited purpose or scope and we have merely to see whether there is anything in the new Act, militating against the continuance of the notifications, rules, etc., -- "in force immediately before such commencement" -- in spite of the repeal. The judgments of the Supreme Court in several cases are pointed in this direction. For example in *The State of Bombay Vs. Pandurang Vinayak Chaphalkar and Others*, the Ordinance in question was repealed by the Act and it was contended that a notification issued

under the Ordinance would not continue to be in force after the Act came into force. Applying S.24 of the General Clauses Act, it is held that the notification continued to be in force even after the Ordinance was repealed.

44. Again in *The Brihan Maharashtra Sugar Syndicate Ltd. Vs. Janardan Ramchandra Kulkarni and Others*, already referred to, it was held, applying S. 24 of the General Clauses Act, that the notification conferring jurisdiction on the District Court u/S. 3 of the old Companies Act, 1913 continued to be in force even though u/S. 10 of the new Act, 1956 the District Court would have no jurisdiction if the paid-up capital of the Company was above Rs. 1 lakh and this difference could not be treated as an inconsistency. The Supreme Court held that Once S. 6 of the General Clauses Act applied and the repeal did not affect the notification issued under the old Act as there was no intention in the new Act precluding the applicability of S.6, then S.24 of the General Clauses Act could not "put an end" to the said notification. "If it were not so, then S. 6 would become infructuous", their Lordships held. Again in *Neel alias Niranjan Majumdar Vs. The State of West Bengal*, it was held that a notification of 1923, issued u/S. 15 of the Arms Act, 1878, prohibiting the acquisition, possession or carrying of arms other than fire-arms without a licence, not only continued to operate because of Ss. 6 and 24 of the General Clauses Act, but is also to be deemed to have been issued under the Arms Act, 1959. Further, it was held that the new Act nowhere contained any intention to the contrary signifying that the operation of the repealed Act or notification issued thereunder was not to continue. We do not think that the observations in *Jagir Singh Vs. Ranbir Singh and Another*, were meant to lay down anything different.

45. Once the deeming provision in S. 217(2)(a) applies, the draft scheme issued by the STU in exercise of powers U/S.68-E (read with S. 68-C) must be deemed to be one issued under S. 102 (read with S.99) of the new Act by the Government. Once such a situation has arisen and the notification in regard to the draft scheme of the STU is to be treated as one Issued by the Government and published under S. 102, there is no other provision in the new Act which is inconsistent with the continuance of the said notification after the repeal. No provision is brought to our notice which is inconsistency with the continuance of such a notification and which terminates the same. It is true that under the old Act the scheme is to be initiated by the STU while it is to be initiated by the Government under the new Act. But inasmuch as we have held that sections 99 and 102 of the new Act correspond to S. 68-C and S. 68-E of the old Act, and so do S. 68D and S. 100, the differences in the old and new sections do not gain any importance. What is required is a corresponding provision and not an identical provision. If there is a corresponding provision in the new Act, the proposal u/S. 68-E of the old Act must be treated as a proposal u/S. 102 of the new Act and then the question is whether there is anything in the new Act which is inconsistent with the "continuance" in force of the said notification after 1-7-1989. There is, as already stated, no such provision in the new Act which can be said to be inconsistent with the continuance of the proposal after

1-7-1989. To this extent we do not agree with the observations of the learned Judge in *P. Narsimloo v. Govt. of A.P.* (1990) 3 A LT 502, referred to earlier.

46. We, accordingly hold alternatively that even if our view on point No. 1 is not correct and S. 217(2)(e) is not attracted, the repeal does not affect the pending schemes for modification because of S. 217(4) read with S. 6 of the General clauses Act, 1897, and further that under S. 217(2)(a) the notification issued in exercise of powers u/S. 68-E (read with S. 68-C) by the STU is to be treated and deemed as a notification issued under the corresponding provision in S. 102 (read with S. 99) of the new Act, by the Government and that there is no provision in the new Act which is inconsistent with the continuance of the said notification. Point No. 3 is decided accordingly.

47. But in view of our main finding on point No. 1, it is held that the scheme for modification of the scheme issued in exercise of powers under S. 68-E of the old Act, be treated as a scheme made under S. 68-C and in view of S.217(2)(e), the same can be disposed of under S. 100 by the Government.

48. In view of our finding on point No. 1 it will be for the State Government to follow the same procedure even in respect of approved schemes of modification, which are awaiting publication as indicated in the operative portion of the judgment in *P. Narsimloo v. Government of Andhra Pradesh* 1990 (3) ALT 502 and as approved by the Division Bench in *Government of A. P. v. P. P. Narasimloo* 1991 (1) Andh LT 7.

49. We, therefore, set aside the judgments of the learned single Judge, allow the appeals and dispose of the writ petitions. There will be no order as to costs. Advocate's fee -- Rs. 300/- in each.

50. An oral application has been made by the learned counsel for the writ petitioners-respondents for the issue of a certificate u/Art. 133(1) of the Constitution of India. We do not think that the case involves any substantial question of law of general importance, which, in our opinion, needs to be decided by the Supreme Court of India. However, we direct that there shall be stay of issue of a final notification of modification of the existing schemes, for a period of eight weeks from to-day to enable the writ petitioners to obtain appropriate orders from their Lordships of the Supreme Court.

51. The above orders of stay will not however preclude the State Government from calling for fresh objections in accordance with S. 100 and in disposing of the same. But no final notification will be published in the Gazette in accordance with S. 100 for period of eight weeks from today. If by the expiry of eight weeks no stay order is obtained from the Supreme Court, it will be open to the Government to issue the notifications in the Gazette under S. 100(3).

52. Appeals allowed.