

(1989) 01 RAJ CK 0028

In the Rajasthan High Court

Case No : Civil Writ Petition No's. 778, 1765, 1785 and 2853 etc. etc. of 1988

Kana Ram and

APPELLANT

Vs

The Regional Transport Authority and Another

RESPONDENT

Date of Decision : 17-01-1989

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1939 — Section 45, 45(1), 46, 47, 48

Citation : AIR 1990 Raj 143 : (1989) WLN 373

Hon'ble Judges : M.B. Sharma, J;I.S. Israni, J

Bench : Division Bench

Advocate : Bharat Vyas, S.M. Mehta, O.P. Sharma, K.C. Sharma, A.K. Bhandari and Fasiuddin, for the Appellant; M.I. Khan, A.A.G. and Rakesh Bhargava, Dy. Govt. Advocate, for the Respondent

Final Decision : Partly Allowed

Judgement

M.B. Sharma, J.—This order will dispose of this writ petition as well as the identical writ petitions detailed in Schedule annexed to this order*.

2. Before we take up the facts of Kana v. R.T.A. (Writ Petn. No. 2853. 88), it may be stated that the preliminary objection about the territorial jurisdiction of this Court and maintainability of writ petitions, which has been raised by learned Counsel for the non-petitioners, may first be dealt with.

3. It is contended by Mr. M.I. Khan, Additional Advocate General, counsel for the Regional Transport Authority, Haryana, that counter-signatures for a period of four months, from time to time, were done by the Regional Transport Authority, Faridabad/ Hissar in Haryana State and therefore, the Punjab and Haryana High Court has alone the jurisdiction in the matter. We may state that u/Section 48 of the Motor Vehicles Act, 1939 (for short "the Act"), the Regional Transport Authority on an application made to it u/Section 46 and subject to the provisions of Section 47, grant a Stage Carriage Permit. In case it is proposed to use the vehicle in two or more regions lying in different States, then according to the

second proviso to Sub-section (1) of Section 45 of the Act, an application for grant of permit has to be made to the Regional Transport Authority of the region in which the applicant resides or has his principal place of business. There is no dispute that each of the petitioners in these cases, reside and have their principal place of business in Rajasthan and therefore, even on inter-State route/routes, in these cases all the routes in dispute are inter-statal routes, falling in between State of Rajasthan and State of Haryana, the Regional Transport Authority has jurisdiction to grant the permit. It has not been disputed so far as the validity of the permit so granted by the Regional Transport Authority, Jaipur is concerned, it will be only valid in the State of Haryana on the permits being counter-signed by the Regional Transport Authority/Authorities in that State. If the permits would not have been granted by the Regional Transport Authority on Inter-statal route, the question of counter-signing by the Regional Transport Authority of the other State would not have arisen. So, therefore, in such cases where permit has been granted by the Regional Transport Authority of one State and is to be counter-signed by the Regional Transport Authority of other State, a part of cause of action can be said to have arisen in either of the two States. In the instant cases, in majority of the cases, after the renewal of the permits on the inter-statal routes by the Regional Transport Authority, Jaipur, counter-signatures were done by the Regional Transport Authorities of Faridabad/Hisar in the State of Haryana, though the counter-signatures have been for a short duration of four months but after having counter-signed, the permits for a period of four months, the Regional Transport Authorities of Faridabad/Hisar stopped counter-signing the permits without making any order in that behalf. It will be appropriate to make a reference to the case of this Court in Mohammed Shafi and Others Vs. The State of Rajasthan and Others, wherein a similar objection in respect of territorial jurisdiction of this Court in a case where also inter-statal route in between the State of Rajasthan and State of Madhya Pradesh was involved and the question of validity of reciprocal agreement/agreements was involved. In para 21 the Court said that the contention raised has no force because it cannot be denied that the part of the cause of action arise within the State of Rajasthan because the reciprocal agreement has been entered into between the two States in respect of plying of vehicles on inter-statal routes which undoubtedly lie partly in the State of Rajasthan as well. We are therefore, of the opinion that in the facts, as narrated above, it can hardly be said that this court has no territorial jurisdiction and the writ petitions are not maintainable either on the ground of lack of territorial jurisdiction or on the ground of existence of alternative remedy because, as has already been stated earlier, no orders refusing further counter-signing have been passed.

4. For the disposal of the writ petitions, we will give the facts of the case Kana Ram v. R.T.A. (Writ Petition No.2853/88) because only in few cases reply has been filed and Kana's case is one such case in which reply has been filed.

5. Petitioner is holding non-temporary stage carriage permit on the inter-statal route Kotputli-Narnaul via Benethi, and the said route falls within the State of

Rajasthan and State of Haryana. The permit was last renewed in the year 1986. The petitioner was applying for permit right from the year 1976 and the Regional Transport Authority, Faridabad (Haryana) was granting the counter-signatures on the said permit issued to the petitioner by the Regional Transport Authority, Jaipur. Even after renewal of the permit, the Regional Transport Authority, Faridabad (Haryana) was counter-signing the permit but counter-signatures were not for the full duration of the permit, for which it had been renewed for five years, and even if temporary permits were granted, counter-signatures were made but after having granted counter-signature for four months's period, the Regional Transport Authority also stopped counter-signing the permits. It may be stated that the inter-statal draft agreement dated September 9, 1974 published in the Rajasthan Gazette extraordinary has been pleaded in so far as the route in question is involved. But neither corresponding notification under Sub-section (3A) of Section 63 of the Act published by the State of Haryana has been produced nor the final agreement under Sub-section (3B) of Section 63 of the Act, either by the State of Rajasthan or by the State of Haryana does not appear to have been published, nor has been placed before us.

6. The reply filed by the non-petitioners in the case is that u/Sub-section 3(A) of Section 63 of the Act, there was no valid reciprocal agreement in between the State of Rajasthan and the State of Haryana therefore, the Regional Transport Authority, Faridabad (Haryana) or for that matter any other transport authority of the Haryana State, was not bound to counter-sign the permits issued by the Regional Transport Authority, Jaipur.

7. The question therefore, is as to whether the action of the Regional Transport Authority, Faridabad (Haryana) in refusing counter-signing the non-temporary stage carriage permit of the petitioner on the inter-statal route is proper and legal, or not.

8. We will at this stage deal with the question of validity/legality of the agreement.

9. It may be stated that Sub-section 3(A) was inserted in Section 63 of the Act by Act No. 56 of 1969 and prior to that Sub-section 3A of Section 63 did not exist on the statute book. Even Sub-section (3) of Section 63 of the Act was amended and after the words "between the States", the words "after complying with the requirement of Sub-section 3A or for the grant of counter-signatures of permits in pursuance to any direction issued by the Commission under clause (c) of Sub-section (2) of Section 63 were inserted. Therefore, it was only w.e.f. 2nd March 1970 that compliance of Sub-section 3A of Section 63 of the Act was necessary and prior to that, it was not necessary that an agreement must have been entered into between the two States for running motor vehicles in terms of Sub-section 3A and Sub-section 3B of Section 63 of the Act.

10. In the batch of writ petitions which are under consideration the inter-statal agreements of 1968 and 1969 have not been pleaded and a look at the

averments of the writ petitions will show that in many of the writ petitions all that has been stated is that there was inter-statal agreement and the date of agreement has not been given. In most of the writ petitions inter-statal agreements which have been pleaded are of 1981 or August 5, 1986. Be that as it may during the course of arguments, learned counsel for some of the petitioners (Mr. Bharat Vyas) as well as Mr. M. I. Khan, representing the RTA of Haryana brought to our notice some inter-statal agreements to which reference shall be made presently. Before we take up various inter-statal agreements which have been brought to our notice it may be mentioned that though under the agreements of 1968 and 1969 which were entered prior to March 2, 1970 when Sub-sections 3A and 3B were inserted in Section 63 of the Act and the proviso to Sub-section 3 was also amended, it was not necessary, but in agreement thereafter entered into there does not appear to have been any compliance with Sub-sections 3A and 3B of Section 63 of the Act in entering into the inter-statal agreement in between the two States. But the Regional Transport Authorities of Haryana as well as RTA Jaipur Region Jaipur were counter-signing the permits issued by the RTA of one State. It continued to do so till the year 1987. The Regional Transport Authorities of Haryana State refused to counter-sign the permits issued by the RTA Jaipur Region Jaipur. The first inter-statal agreement which has been brought to our notice is of the year 1968. In a meeting held on February, 5 to 8, 1968, at Chandigarh in between the States of Rajasthan and Haryana to run service on various inter-statal routes agreement was arrived at and the permits were granted in accordance with that agreement by the Regional Transport Authorities concerned of both the States and were being counter-signed by the Regional Transport Authorities of other States, The said agreement was declared to have come into force on April 1, 1968. As per its Clause (1) it was to be valid till such time as a new agreement between the two States is arrived at or the existing one is rescinded after issue of six months" notice on either side provided that it may be reviewed or modified at the instance of either State and by mutual agreement at any time. A look at Annex. I will show that at S.No. 6, 10, 13, 15 and 16 are inter-statal routes, namely-Kotputli Rewari via Behror, Behror-Rewari via Kund, Kotputli-Ateli, Singhana Narnaul via Bhakri and Behror-Narnaul and also other routes. It is mentioned therein that the share of traffic in between Haryana and Rajasthan State has been specified against the aforesaid inter-statal routes. It was also agreed under the aforesaid agreement vide clause VIII that in order to ensure uninterrupted service, it was agreed that the Rajasthan Transport Authorities may issue up to 50% extra stage carriage permits to the operators other than the State Transport Undertaking. The number of daily return trips however shall be strictly as fixed under the agreement and will not be exceeded under any circumstances. All such permits shall be got duly counter-signed by the Haryana Authority. It may be stated at this stage that under the reciprocal transport agreement in between the two States at the joint meeting held on July 17/18, 1981 at Delhi/Jaipur vide clause 4 it was agreed that clause B (viii) of agreement arrived in February, 1968 be deleted as there does not appear to be necessity of issuing up to 50% extra

stage carriage permits to the operators other than the state Transport undertaking. Again a reciprocal transport agreement in between Rajasthan Haryana and Delhi was arrived at in the Joint Meeting held on July 29, 1969, at Jaipur. There is a reference in the aforesaid agreement to the earlier agreement concluded between the States of Rajasthan and Haryana on August 26/27, 1958 at Jaipur between Rajasthan and Delhi on July 1, 1967. A look at the aforesaid agreement will show that it pertains to opening of some new routes including, at S.No. 2, Kotputli Mahendragarh via Behror Ateli-Kanima. It also contains the share of traffic in each of the States. Clause 7 of the aforesaid agreement also deals with increase in number of trips in the existing services including Jhunjhunu Delhi route. A draft of proposed agreement dated July 28, 1973 under Sub-section 3A of Section 63 of the Act entered into on July 13, 1973 between the States of Rajasthan and Haryana was published. It relates to certain new inter-statal routes between the States of Rajasthan and Haryana and share of traffic in between each States. But it was provided that the share of Rajasthan proposed shall be operated by the State Transport undertaking i.e. the Rajasthan State Road Transport Corporation. That draft agreement also does not appear to have been published in the official gazette. A reference to the draft agreement dated September 9, 1974 published in the Rajasthan Gazette Extra Ordinary dated September 9, 1974 (sic) and it does not appear that the said draft agreement was also published in the Haryana Gazette as required under Sub-section 3A or final agreement as required under Sub-section 3B of Section 63 of the Act may also be made. A reference has already been made to reciprocal transport agreement between the two States arrived at a short meeting held on July 17/18, 1981 at Delhi/Jaipur. So far as stage carriages are concerned, looking to the increase of traffic on the existing routes since the last agreement in the year 1974 was concluded. But it does not appear that any draft agreement as required under Sub-section 3A or final agreement as required under Sub-section 3B of Section 63 of the Act was published. A reference may now be made to the reciprocal agreement arrived at in between the two States in the meeting held at Pinjore on December 5/6, 1983. In the aforesaid meeting the agreement of July 1981 was discussed and it was decided that both the States would shed off approximately 1500 kms. each as per the details given in Annexure "A". No new route was opened, that agreement too does not appear to have been entered in accordance with Sub-section 3A or 3B of Section 63 of the Act. We have already said in the earlier part of this order that in the present batch of writ petitions reliance has been placed on the agreement dated August 5, 1986. None of the learned counsel for the parties has been able to bring to our notice that the aforesaid agreements were in terms of Sub-section 3 A or 3B of Section 63 of the Act. We have already said earlier that the agreements of 1968 and 1969 were entered prior to March 2, 1970 when Sub-sections 3A and 3B were inserted in Section 63 of the Act. Therefore, so far as agreements of 1968 and 1969 are concerned, those interstatal agreements were not required to be entered into in terms of the aforesaid provisions of Sub-section 3 A of Section 63 of the Act. Therefore, if any permit/permits was/ were issued/renewed in respect

of share of traffic in Rajasthan or Haryana or other States they were bound to be counter-signed to that extent. It has further been said earlier that though clause (viii) it was agreed that the Rajasthan Transport Authorities may issue upto 50% extra stage carriage permits to the operators other than the State Transport undertakings. The number of daily return trips however was to be strictly as fixed under the agreement and will not be exceeded under any circumstances, but that clause was deleted under reciprocal agreement dated July 17/18, 1981 at Delhi/Jaipur. As per clause (i) of the agreement of February 1968, the agreement was to remain valid till such time as a new agreement between the two States is arrived at or the existing one is rescinded after issue of six months" notice on either side provided that it may be reviewed or modified at the instance of either State and by mutual agreement at any time. Mr. Khan, learned counsel for the non-petitioners contended that the agreement of 1968 has been rescinded by six months notice which expired on December 8, 1988. This Court in the case of Mohd. Shafi AIR 1977 Rajasthan 6 (supra) was dealing with the similar agreement wherein it was stipulated that the agreement may be modified by mutual agreement at any time. The Court said that (at p. 12) :

"Thus six months prior notice on either side was necessary only for the purpose of rescinding the earlier agreement of 1968, which was arrived at between the States of Rajasthan and Madhya Pradesh. From the aforesaid clause it is absolutely clear that the said agreement could be modified reviewed or revised by mutual agreement at any time and without any prior notice. Therefore, there was no such requirement of six months prior notice for mere modification or revision of the 1968 agreement and it cannot be argued that the present agreement entered into on April 3, 1975 was not a revised or modified agreement. Moreover, six months" notice was required to be given by either party to the said agreement amongst themselves and it was not necessary to give any notice in that respect to the existing or affected operators, including the petitioners.

Therefore, the earlier agreement in respect of grant of 50% extra stage carriages permits stood modified by the agreement of the year 1981 which has been referred to earlier, and for the modification of the agreement because it did not provide to increase of vehicles, in our opinion compliance with Sub-section 3A of 3B of Section 63 of the Act was not necessary. This Court in the case of Rajasthan State Road Transport Corporation, Jaipur v. Regional Transport Authority, Jaipur AIR 1977 Raj 136, has taken a view that the authorities concerned may validate the permits for use outside the region in which it is granted u/s 63(3) only on the conditions stated in the provisions being satisfied. This Court dealt with the provisions of Section 3 A of Section 63 of the Act and said that the said provision requires that the agreement enabling such permission by counter-signature should have been published by each of the State Governments concerned in the official gazette and after receipt and consideration of representations. The Court also said that an order without satisfaction of the aforesaid provisions cannot be held to be valid.

11. So far as agreements entered into after March 2, 1970 are concerned, the same have been referred to in the earlier part of this order. Notwithstanding the fact that the RTA of the other State was counter-signing the permits issued by one State it can be said that the RTA of the region concerned was not bound to counter-sign the permits and it cannot be said that they are valid agreements in terms of Sub-section 3 A or 3B of section 63 of the Act.

12. It may be stated that in good number of routes in respect of which inter-statal agreements either before March 2, 1970 or after that date were entered, so far as their portions of the State of Rajasthan is concerned, stand curtailed in view of the provisions of notified schemes u/s 68D(3) of the Act. In other words on the Rajasthan portion of the Inter-statal route in question the petitioners are only plying their vehicles on the portion minus, the notified scheme as aforesaid. But so far as the portion of the inter-statal route in Haryana is concerned they were plying on the entire distance of the route of that State. There can be hardly any dispute that the law is settled that the schemes notified and approved u/s 68-D would prevail over the inter-statal agreement (which?) is not law and cannot override chapter IV and the scheme notified and approved as aforesaid is law. Similar view was taken in the case of *S. Abdul Khader Saheb Vs. The Mysore Revenue Appellate Tribunal, Bangalore and Others*, and was followed by this Court in the case of *R.S.R.T.C. v. R.T.A., Jaipur*, AIR 1977 Rajasthan 136. Therefore, notwithstanding the fact that there has been an inter-statal agreement, a valid agreement in between inter-statal agreement, a valid agreement in between the two States, if there is any notified scheme approved u/s 68D of the act in the State of Haryana on the portion of the route in that State, there can be no dispute that the permit-holders cannot ply their vehicles on the portion of the route in Haryana. Mr. M.I. Khan, learned counsel for the RTA's of Faridabad/Hisar has contended that there are schemes approved u/s 68-D(2) on all portions of the route in Haryana and therefore, despite a valid inter-statal agreement even if there was one, the petitioners or permit-holders could not ply on the notified portion of the route in Haryana State. We may state that on being asked Mr. Khan, placed before us a number of notifications published in Haryana gazette. He has placed before us the Gazette notifications dated December 22, 1969 Part III Haryana Government Extra-ordinary, dated April 10, 1970 (503), Haryana Government, dated April 10, 1970, (505), dated August 5, 1970 (813), dt. Nov. 8, 1974 (651), Nov. 5, 1970(955) dated November 12, 1970 (971), dated November 24, 1970, dated March 22, 1971 (85), dated March 23, 1971 (105), dated February 24, 1972 (245), dated October 26, 1972 (1139), dated October 26, 1972 (1141), dated October 26, 1972 (1143), dated October 26, 1972 (1145), dated October 26, 1972 (1147), dated August 14, 1970 (827), all Part III, and a perusal of the aforesaid Gazette Notification shows that they relate to all approved notified schemes u/s 68D(2) and (3) of the Act. They relate also to one or other inter-statal routes in question. We may refer to few routes by way of illustrations which are contained therein. Nu-Hodel via Attawar (Gazette notification dated October 26, 1972-1143), Ateli-Kotputli (dated

October 26, 1972-1147), Narnaul-Kotputli at the same page. A look at the aforesaid approved scheme u/s 68-D(2)(3) till show that in each of them it is mentioned that "to the complete exclusion of other persons running and operating their stage carriages on the routes, provided that nothing in the scheme shall affect the services of persons of any State, other than the State of Haryana or of any Union Territory running and operating on the route by virtue of any Inter-State agreement". It will therefore be clear that though there were notified approved schemes u/s 68-D(2) and (3) of the Act, but they were not in total exclusion of other operators of the States other than State of Haryana. Therefore, if private operators of this State are plying their vehicles on permits issued/renewed by this State, they would do so. If under any interstate agreement even on portion of inter-statal route in the State of Haryana the vehicles of this State are plying then they will continue to ply but it will depend on the validity of the agreements.

13. We have already said earlier that so far as inter-State agreement prior to March 2, 1970 are concerned, i.e. agreements entered into before March 2, 1970, it was not necessary that there should have been compliance with Sub-sections 31 and 3B of Section 63 of the Act and therefore unless the agreements of 1968 or 1969 are rescinded in accordance with clause contained therein or are modified/prescribed, and we have already said that so far as giving of 50% more permits are concerned, clause VIII was deleted in 1981, they were valid inter-statal agreements. But so far as agreements alleged to have been entered after March 2, 1970 are concerned, there being no material to come to the conclusion that they were entered after complying with the provisions of Sub-sections 3A or 3B of Section 63 of the Act, the same cannot be said to be valid and therefore even under the approved scheme notified u/s 68D(2) and (3) of the Act on the portion of the route in Haryana State the private operators, i.e. the petitioners can have no right to ply the buses and therefore the RTA Hisar/Farida-bad or for that matter any other RTA in Haryana or any other State is not bound to counter-sign the permits so as to make them valid in that State.

14. It was contended by the learned counsel for the petitioners that even if the permits issued/renewed by the RTA Jaipur Region, Jaipur on inter-statal route so far as the routes under the inter-statal agreements on or after March 2, 1970, are concerned, if the RTA Faridabad/Hisar/Delhi had counter-signed them for four months i.e. less than the duration of the permits issued or less than three years, it shall be considered that the permits have been counter-signed for entire duration of permit or at any rate for three years. In support of this contention the learned counsel for the petitioners have placed reliance on the case of Hazarimal v. Regional Transport Authority, Jaipur 1956 Raj LW 359. It was a case in respect of interregional route and not inter-statal route. The permit was issued by one RTA and countersigned by the other RTA, though for the short period and thereafter they were not countersigned. The Court said that the power of the RTA in the matter of countersigning is to be found in Sub-section (2) of Section 63 of the Act. The court further said that when the RTA grants a permit it is bound, u/s

58(1) to give a period of at least 3 or at the most 5 years as the duration of the permit. It cannot grant a permit u/s 57 to 61 of the Act for less than a period of three years. It was held that when another RTA is asked to counter-sign a permit already granted, it can only countersign it for the period for which the permit has been granted by the first authority or for the minimum period of three years, if the first authority had granted it for more than three years. But in no case it can reduce the period to less than three years. Having said above it was held that the counter-signatures done for shorter period shall be for three years. In that case the permits had been issued for three years. The contention of the learned counsel for the petitioners is that the above case will apply to inter-statal routes also, and even if there was no inter-statal agreement under Sub-section 3A or 3B of Section 63 of the Act between two States, if the RTA Faridabad/ Hisar had counter-signed, the permits issued by the RTA Jaipur for shorter duration, i.e. period of four months on more than one occasion or even on one occasion the counter-signatures will be deemed to have been done for the period atleast 3 years, if not for five years, the duration of permits. It is contended that even if there is no valid agreement under the aforesaid provisions of Section 63 of the Act all that is required under Sub-section (3) of Section 63 is that the provisions of Chapter IV relating to the grant, revocation and suspension of permits shall apply to the counter-signatures and the procedure contained in Section 57 of the Act for grant of stage carriage permits and shall apply to the grant of counter-signature also. Therefore, even assuming that there was no valid agreement after 1968 in between the Rajasthan and Haryana States, if without following the procedure contained in Chapter IV relating to grant of stage carriage permits, if the counter-signatures have been done for a period less than three years, that shall be deemed to have been done for a period of three years atleast.

15. A look at Sub-section (1) of Section 63 of the Act will show that the permits granted by the RTA of one region in any one State shall not be valid in any other State unless counter-signature by the RTA of other State is done, therefore, on other routes before the permits can be valid beyond the territory of one State, if it is issued by the RTA of that State, it must be counter-signed by the RTA of the other State. Therefore, even in the absence of valid inter-statal agreements, the RTA Faridabad/Hisar/Delhi could have counter-signed the permits issued by the RTA Jaipur Region, Jaipur after following the procedure prescribed u/s 57 of the Act in view of Sub-section (3) of Section 63 of the Act. In case there was a valid agreement and we have said that there were valid agreements of 1968 and 1969 in respect of the routes in between the State of Rajasthan and State of Haryana, if permits were/issued by the RTA Jaipur region Jaipur, the RTA Faridabad/Hisar/Delhi are bound to counter-sign them and in that case it will not be necessary to follow the procedure prescribed u/s 57 of the Act for grant of permits while granting the counter-signature but the fact is that on almost all the routes and almost on majority of inter-statal routes there was approved scheme notified u/s 68D(2) and (3) of the Act for portion of the route in Haryana State. We may state that duly approved notified schemes as aforesaid are to the exclusion of the

valid agreements entered in between two States. Therefore, so far as the services under the permits granted under the agreement of February, 1968 are concerned, we can say that if the permits are granted on the inter-statal routes under that agreement as modified by 1981 agreement as aforesaid, the RTA Faridabad/Hisar will have to counter-sign the permits but if there are no valid agreements and we have said that there are no valid agreements after March 2, 1970 on the inter-statal routes between the two States, then in view of the approved notified schemes u/s 68-D(2) and (3) of the Act, the RTA Faridabad/Hisar or for that matter any other RTA is not bound to counter-sign them because the approved schemes are law and in case there is inter-statal agreements and the approved scheme, the approved scheme will prevail and not the inter-statal agreement.

16. In the light of the pleadings which have been preferred by the petitioners, it is not possible to say in each and every case, and we may say that agreement of 1968 was not pleaded and only during the course of arguments it was mentioned, and to decide each and every case on merits and we only propose to lay down the principles which shall govern all the cases and similar other cases which may arise later on. It may be stated that even if in case of valid agreement, and 1968 agreement has been held to be valid by us and we have refused to say anything about the alleged recession of above agreement after six months notice on December 8, 1988, as stated by Mr. Khan, counter-signatures were done only for periods of four months i.e. for less than three years or for duration of permits. Such counter-signatures will be considered to have been done for the duration of permits, in this case five years. But so far as agreements entered after March 2, 1970 are concerned, they are not valid agreements and therefore, the RTA Faridabad/Hisar is not bound to counter-sign the permits issued/renewed by the RTA Jaipur Region Jaipur and it is not legally possible because of the existence of approved notified schemes u/s 68(2) and (3) of the Act and the permit-holders have no right to play their buses on the portion of such of the routes in Haryana State.

17, Consequently, we hereby lay down the following principles which will govern the cases in hand and all other similar cases.

(i) The inter-statal agreements of February 1968 as well as of 1969 modified in 1981 on the routes in question are valid agreements unless they are modified or rescinded in accordance with law. If therefore, on such routes the permits have been issued/renewed by the RTA Jaipur Region, Jaipur, the RTA Faridabad/Hisar or for that matter any other RTA in Haryana is bound to counter-sign them for the duration of permits and is directed to counter-sign the permits as aforesaid. This is so even for the routes in respect of which there are approved nationalisation schemes because they exclude the valid inter-statal agreement.

(ii) The inter-statal agreements entered into on or after March 2, 1970, for such of the routes covered by them are not valid agreements, having not been made in accordance with the provisions of Sub-sections (3A) and (3B) of Section 63 of

the Act and being not in conformity with those provisions. Therefore, notwithstanding by the RTA, Jaipur Region Jaipur, the R.T.A. Faridabad/Hissar or for that matter any other RTA in Haryana is not bound to countersign them. Even, if the counter-signatures on such permits for a shorter duration i.e. for a period of four months have been done, they cannot be said to have been done for the entire duration of the permits or for the period of three years, and therebeing approved nationalised schemes under and Section 68D(2)(3) of the Act, the permit-holders have no right of counter-signatures and the RTA Hissar/ Faridabad or for that matter any other RTA cannot be directed to counter-sign the permits and it cannot be said that though the procedure u/s 57 of the Act was not followed the counter-signature for shorter duration shall be considered for the entire duration of the permit or for the period of three years.

(Hi) If there is no nationalised approved scheme u/s 68-D(2) and (3) of the Act on any portion in Haryana State of the route in question and counter-signature even for a shorter duration have been done on such permits issued/renewed by the RTA Jaipur Region Jaipur without following the procedure prescribed u/s 57 of the Act, the counter-signatures shall be deemed to have been done for a period of atleast three years.

18. All the writ petitions are therefore, partly allowed to the extent aforesaid and the RTA Faridabad/Hisar or for that matter any other RTA in any other State so far as the routes in question are concerned are directed to decide within a period of one month the matter of counter-signature of permits issued by the RTA Jaipur/on the inter-statal routes in question in the light of the aforesaid principles of law laid down by us. During the pendency of these writ petitions we had issued interim orders directing the RTA Faridabad/Hissar to counter-sign the permits up to 15th January, 1989. The period is extended by one month from this date and the permits counter-signed under our orders aforesaid shall be deemed to be counter-signed up to the extended time as aforesaid. Costs made easy.