

(1972) 03 RAJ CK 0017

In the Rajasthan High Court

Case No : Civil Writ Petition No's. 76, 118, 119 and 121 of 1971

Lal Chand and Others

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 28-03-1972

Acts Referred:

Constitution of India, 1950 — Article 166(3)

Motor Vehicles Act, 1939 — Section 68C, 68D

Rajasthan State Road Transport Services (Development) Rules, 1965 — Rule 4, 6

Citation : AIR 1973 Raj 103 : (1972) RLW 536

Hon'ble Judges : R.D. Gattani, J

Bench : Single Bench

Advocate : M.M. Vyas and R.R. Vyas, for the Appellant; G.C. Kasliwal, General, R.N. Munshi and N.P. Mathur for Respondents No. 3, for the Respondent

Judgement

R.D. Gattani, J.—These four writ petitions under Articles 226 and 227 of the Constitution have been filed by two sets of petitioners for getting certain order of the Joint Legal Remembrancer, Government of Rajasthan, Jaipur quashed. Since the grounds raised for quashing the main order are not only common, but the same arguments have been advanced by both the parties, It shall be convenient as well as proper to decide them by one order. In order to appreciate the legal questions involved, the facts of one writ petition i. e. No. 76 of 1971 are given in details.

2. The petitioners of writ petition No. 76 of 1971 are operators on Shahpura-Bijai Nagar via Gulabpura route and are plying their bus R. J. E. 462 on that route. A scheme u/s 68-C of the Motor Vehicles Act, 1939 (hereinafter referred to as "the Act") was published by the General Manager, Rajasthan State Road Transport Corporation. Jaipur in the Rajasthan Raipatra dated 13-1-1966 in respect of Ajmer-Bhilwara and Ajmer-Bhinai routes vide Annexure P/1. In this writ petition we are concerned with Ajmer-Bhilwara route only. The petitioners' route is overlapped by Ajmer-Bhilwara route from Bijainagar to Gulabpura which is a distance of about one and a half miles. The petitioners therefore, sent objections

in respect of that scheme by registered post to the Secretary to the Government of Rajasthan. Transport Department on 1-3-1966 vide Annexure P/2. Thereafter respondent No. 2 Joint Legal Remembrancer issued a notice in the Rajasthan Rajpatra dated 24-10-1966 that he would be hearing objections to the Ajmer-Bhilwara scheme on 15-12-1966. The petitioners on that date moved an application challenging the jurisdiction of the Joint Legal Remembrancer in hearing objections and explaining the delay also in the filing of the objections with a prayer that the objections may be treated as within time. According to the petitioners the Joint Legal Remembrancer on 17-6-1967 dismissed the application of the petitioner on the ground that he had jurisdiction to proceed with the scheme, but at the same time he did not decide the question of limitation expressly and asked all the objectors in respect to that scheme to produce their evidence. In this the petitioner took that their objection was treated within time by the Joint Legal Remembrancer. Meanwhile the Supreme Court while deciding Civil Appeals Nos. 1381 and 1384 of 1967 on January 4, 1968 observed as follows:--

"Appointment of the Joint Legal Remembrancer to hear the objections was made under Rule 7 of the Rules framed in the year 1960 and the scheme was published pursuant to Rule 8 of Rules. If the Rules framed by the Government be deemed to have become ineffective there was no authority competent to hear the objections and to publish the scheme."

Upon the basis of the above observations of their Lordships of the Supreme Court the objectors again filed objections with regard to the jurisdiction of the Joint Legal Remembrancer, which was repelled by the Joint Legal Remembrancer by his order dated 13-2-1970. Some writ petitions were filed (not by the petitioners) by some persons, who were aggrieved by the order of the Joint Legal Remembrancer dated 13-2-1970 in this Court. On 12-3-1970 this Court stayed further proceedings before the Joint Legal Remembrancer vide Annexure P/3. On 30-5-1970 the State of Rajasthan issued another notification vide Annexure P/5 appointing Joint Legal Remembrancer afresh for hearing objections as a result of which the writ petitions filed against the order of the Joint Legal Remembrancer dated 13-2-1970 became infructuous and were dismissed as such by this Court on 31-7-1970 vide Annexure P/6. By another notification dated 14-7-1970 u/s 68-D of "the Act" the State of Rajasthan appointed the Deputy Legal Remembrancer also to consider various schemes published u/s 68-C of "the Act" vide Annexure P/7. The Joint Legal Remembrancer notified in the Rajasthan Rajpatra that he would be hearing objections in regard to Ajmer-Bhilwara route on 6-10-1970. As 6-10-1970 was declared holiday the scheme was taken up by the Joint Legal Remembrancer on 7-10-1970. On that date the petitioners filed three applications before the Joint Legal Remembrancer, copies of which are Annexures P/9, P/10 and P/11. On 26-10-1970 the Joint Legal Remembrancer dismissed two applications Annexures P/9 and P/10 by separate orders vide Annexures P/13 and P/14. He called upon the objectors to produce their evidence on 7-12-1970. It is alleged by the petitioners that when the petitioners were

ready with their evidence on 7-12-1970, the Joint Legal Remembrancer refused to receive the same by order Annexure P/16 and thus rejected the application of the petitioners Annex, P/11.

3. It might be stated here that by application Annexure P/10 the petitioners challenged the publication of the scheme in respect of Ajmer-Bhilwara and Ajmer-Bhinai routes on the ground that it was not published in accordance with the provisions of Section 68-C of "the Act." This application was dismissed by order Annexure P/14 dated 26-10-1970 and even though in the prayer clause of the writ petition Annexure P/14 is also sought to be quashed, in fact during the course of hearing, which lasted for three years. 110 argument was raised against Annexure P/14 by the learned counsel for the petitioners. In other words he did not challenge the validity of Annexure P/14 at all.

4. Aggrieved by these orders of the Joint Legal Remembrancer dated 26-10-1970 and 7-12-1970 this writ Petition No. 76 of 1971 has been filed by the petitioners for getting those orders quashed and also for declaring the Rules of Business, framed by the State Government null and void and the Rajas-than State Board Transport (Development) Rules. 1965, as ultra vires the Indian Motor Vehicles Act. The petitioners have further prayed for the issue of a writ of prohibition restraining the Joint Legal Remembrancer from taking further proceedings in respect of the scheme regarding Ajmer-Bhilwara route published u/s 68-C of "the Act."

5. The facts of writ petition No. 118 of 1971 are also given in brief as follows:--

The petitioner Is an existing operator on Jaipur-Nawa amalgamated route. He is a transferee from Chhoturam Roodmal in whose favour the original permit stood. Jaipur-Nawa amalgamated route consists of 8 different services, details of which need not be given here. In Rajasthan Rajpatra dated 23-10-1969 respondent No. 3, the Raiasthan State Road Transport Corporation, Jaipur published a scheme u/s 68-C of "the Act" in respect of Jaipur-Jobner route. The original operators filed objections to it. That scheme was taken up for consideration by the Joint Legal Remembrancer. Government of Raiasthan Jaipur u/s 68-C of "the Act". On 5-10-1970 the petitioner also filed an application challenging the jurisdiction of the Joint Legal Remembrancer. By separate application he applied for being substituted in place of objector Chhoturam Roodmal. The Joint Legal Remembrancer on 26-10-1970 repelled the objection of jurisdiction taken by the petitioner. His application for being substituted in place of Chhoturam Roodmal also was rejected.

6. The facts in respect of writ petitions Nos. 119 and 121 of 1971 are almost identical to the facts of writ petition No. 118 of 1971 except that writ petition No. 119 of 1971 is in respect of objections filed vis-a-vis the scheme of Jaipur-Beechum route and writ petition No. 121 of 1971 is in respect of objections filed vis-a-vis the scheme of Jaipur-Sambhar route. In all these three writ petitions the petitioner has prayed for the quashing of the order dated 26-10-1970 of the

Joint Legal Remembrancer, whereby he repelled the objection raised by the petitioner in respect of jurisdiction and has further prayed that his name be substituted in place of objector Chhoturam Roodmal.

7. Since the vires of the Rajasthan State Board Transport (Development), Rules, 1965 was also challenged, notice to the Advocate General was also Issued separately,

8. The writ petitions have been opposed by the Rajasthan State Road Transport Corporation. Jaipur and the contention of the learned counsel for the petitioner challenging the vires of the Rajasthan State Road Transport (Development) Rules, 1965. has been opposed by the learned Advocate General also.

9. It was first vehemently argued by the learned counsel for the petitioners that the Rules of Business made by the Governor under Article 166, Sub-clause (3) of the Constitution were invalid as they have not been published for general use, they are confidential in nature and as a copy of the Rules was not furnished to the petitioners. No direct authority, however, was cited in support of this proposition, but the learned counsel relied upon a case reported in Management of the Advance Insurance Co. Ltd. Vs. Gurudasmal, Supdt. of Police and Others, This authority however, is of no help to the petitioners, because the contention raised in it was that the Rules were not produced and it was said by the Court that a judicial notice would be taken of the same as it was not a fact to be proved by primary evidence and that certified copies would also be admissible. It might be stated here that the question of justiciability of Rules or their being invalid did not come at all in that case.

10. Article 166, Sub-clause (3) of the Constitution under which these Rules had been framed reads as follows :--

"166, Conduct of business of the Government of a State:--

(1) and (2)

(3) The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion."

It is clear that these Rules have been made for two specific reasons viz. (i) for the more convenient transaction of the business of the Government of the State, and (ii) for the allocation among Ministers of the Business of the Government of State excepting the business in which the Governor is to act in his discretion. Obviously the Rules framed under Sub-clause (3) of Article 166 of the Constitution relate to the internal affairs of the Government of the State as to how the executive affairs of the State are to be carried and have nothing to do with the public so far as the executive work of the Government is being done in accordance with those Rules. In other words it is not the concern of the public in general what should be the Rules framed under Article 166(3) of the

Constitution. Of course the public has got a right to see that an executive action of the Government of the State is taken in accordance with these Rules. If any such action is not taken in accordance with these Rules, that action itself may be justiciable, but that does not mean that the Rules framed under Article 166(3) of the Constitution can be challenged for that purpose. The Rules cannot be said to be of confidential nature. Of course they are made for official use only. Since these Rules have been made for the allocation of the executive business of the Government among the Ministers and its officials only, the petitioners, in my opinion, as of right cannot claim copy of them as such. At the same time, they have got right to go into the particular item of the First Schedule attached to the Rules concerning their case e. g. the present cases are governed by item No. 38 appearing in the First Schedule under Part XVI, which is as follows:--

"Part XVI -- Law and Judicial Department and Legal Remembrancer's Office.

(38). Consideration of objections to, approval and modification of scheme u/s 68-D of the Motor Vehicles Act. 1939 (Central Act 4 of 1939)." Rule 4 of the Rules of Business runs as under :--

"4. The business of the Government shall be transacted in the Secretariat Departments specified in the First Schedule and shall be classified and distributed between those departments as laid down therein."

The petitioners were, therefore, entitled to get a copy of item No. 38 of Part XVI of the First Schedule. It is admitted by the petitioners of writ petition No. 76 of 1971 that upon their application of 14-6-1970 for the issue of the copy of the Rules of Business, they were informed by the concerned Section Officer that only the relevant copy of Item No. 38 of Part XVI of the First Schedule of the Rules of Business could be issued to them, provided they applied to the Officer Incharge. Secretariat Central Record. Jaipur as per Rules for the supply of a copy. This information was sent to the petitioners by means of a letter dated 1st July. 1970. In their writ petition or the affidavit attached to it they have not said that they applied for the copy of even this item, but did not get it till their objections were decided by the Joint Legal Remembrancer. The validity of the Rules of Business made by the Governor was challenged on some of the similar grounds in Chandra Bhan v. State of Rajasthan AIR 1961 Raj 168 but all objections were repelled. The learned Judges who decided the case observed at page 172 of the Reporter as follows:--

"A great deal of attack has been levelled at the Rule on the ground that the Rules of Business framed by the Governor being of a confidential character, the public will not be able to know on what authority the appointment of the officer has been made, and the Rules are capable of being changed from time to time. Of course it would have been better if in Rule 7 Itself it had been clearly specified that the Legal Remembrancer to the Government was authorised to hear and dispose of the objections presented u/s 68-D of the Act; but we do not think that the validity of the Rule as it stands can be challenged on these grounds."

Under Article 166(3) of the Constitution the Governor is authorised to frame the Rules of Business and it is of course open to him to change the Rules at his discretion in order to suit the convenience of the administration. If the authority of any particular appointment made by the operation of the Rules of the Business is challenged on the ground that the appointment is not in accordance with these Rules, the Government may by notification satisfy the public demand to that effect; but normally the presumption is that when an appointment is made under the Rules, it must be in accordance with the Rules of Business framed by the Government" Of course in that case it was further held that If in any particular case it is actually found that the appointment is not in accordance with the Rules so framed the appointment may be quashed on that ground that the authority of the person appointed may be challenged on that account. In these cases also the petitioners have got right to challenge that the appointment of the Joint Legal Remembrancer for considering the objections u/s 68-C of "the Act" is not in accordance with the Rules of Business. While dealing with the Rules of Business the Calcutta High Court has gone further and held in the case reported In Arun Kumar Bhattacharjee and Others Vs. State of West Bengal and Others, that the Rules of Business framed by the Government of West Bengal under Article 166(3) of the Constitution are Intended for more convenient transaction of business of the Government of the State and not to create or confer a right upon a public servant to come and apply for a writ under Article 226 of the Constitution for violation of these Rules.

11. The learned counsel for the petitioners has in this connection further relied upon the State v. Banshilal Luhadia. 1962 Raj LW 307 (AIR 1962 Raj 250) and the State v. Tara-chand 1963 RLW 8. Article 166 does not extend to validity of order on other grounds and in cases where previous sanction for prosecution is required, validity of sanction can be challenged on grounds constituting proper sanction e. g. that the authority sanctioning prosecution had not applied mind or was not competent. In the second case it was held that the provisions relating to the mode of exercise of executive power are of vital nature and contemplate a proper delegation by rules to be framed by the Governor and consequently are not a fit subject of immunity from judicial inquiry and the bar cannot be extended to include them also and it cannot be accepted that the courts have no authority to examine whether a functionary acting in the name of the Governor has the authority to do so and whether he has complied with the necessary requirements of law governing the exercise of the executive power. It was further held that the fact that Sub-rule (3) of Article 166 requires Rules to be framed for the allocation of the business of the Government among Ministers implies the need of a proper and valid delegation and the authors of the Constitution could not have intended to screen from judicial inquiry an exercise of executive power in disregard of such rule. Obviously in either of these cases the question about the ultra vires of the Rules of Business framed by the Government under Article 166(3) of the Constitution was not in question. What was impeached was the action taken under these Rules. In other words, whether the persons purporting

to act under the Rules of Business had really the authority to act or not. These authorities are, therefore, in my opinion, of no help to the petitioners. Of course as stated above, the petitioners shall be at liberty to say that the Joint Legal Remembrancer had no jurisdiction to consider u/s 68-D of "the Act" various schemes published u/s 68-C of "the Act".

12. Next It was urged by the learned counsel for the petitioners that the Joint Legal Remembrancer had no jurisdiction to hear the objections in spite of the notification issued by the Government on 30-5-1970, copy of which is Annexure P/5. In this connection it is said that this notification purported to have authorised the Joint Legal Remembrancer under item No. 12 of Part XVII of the First Schedule to the Rules of Business to consider objections to approval and modification of scheme u/s 68-D of "the Act", whereas Part XVII of the First Schedule of the Rules of Business has only 4 items and neither of them has anything to do with the consideration of objections u/s 68-D of "the Act". This fact is no doubt true. Part XVII of the First Schedule of the Rules of Business published in 1968 relates to Planning Department and has nothing to do with the Law and Judicial Department and Legal Remembrancer's Office. It appears while issuing the notification Annexure P/5 on 30-5-1970 a mistake was committed by the Government when it mentioned item No. 12 of Part XVII of the First Schedule in that notification. Rules of Business, 1968 were then in force and as such item No. 38 of Part XVI (cited above) should have been mentioned. Before these Rules were framed in 1968, the Rules of Business framed in 1964 were in force. In the latter Rules item No. 12 of Part XVII of the First Schedule read as follows:--

"XVII-(12). Consideration of objections to, approval and modification of the scheme, u/s 68-D of the Motor Vehicles Act, 1939, (Central Act 4 of 1939)."

If this notification was issued so long as the Rules of Business 1964 were in force, this was no doubt correct citation of the relevant item and Part, but in the Rules of Business of 1968, as said above, the relevant and correct item was 38 and correct Part was XVI. The impugned order says that a Corrigendum later on was issued by the Government giving correctly the number of the item and number of the Part as 38 and XVI respectively. But the grievance of the learned counsel for the petitioners is that that corrigendum having been not issued under the authority of the Governor is of no value.

13. The question which, therefore, emerges is whether due to incorrect description of item and Part in Annexure P/5 notification dated 30-5-1970 duly issued by the Government authorising the Joint Legal Remembrancer to hear the objections u/s 68-D of "the Act", the Joint Legal Remembrancer had no jurisdiction to act according to the wishes of that notification. Even if we omit the item number and Part number appearing in Annexure P/5, I am of the view that the rest of the wordings of the notification do vest the power in the Joint Legal Remembrancer to consider the objections u/s 68-D of "the Act", because there is a reference of the First Schedule to the Rules of Business and there is further a reference of Article 166 of the Constitution of India. I am fortified in this

conclusion by case reported in Green Bus (Rajasthan) Private Ltd. and Others Vs. State of Rajasthan and Others, wherein it was held that it is the requirement of Rule 7 (1) of the Rajasthan State Road Transport Service (Development) Rules, 1960 itself that the appointment shall be made under the Business Rules. When the Governor, while appointing the Joint Legal Remembrancer, referred to Rule 7 (1) it shows that he was doing so in pursuance of the Business Rules. It is not necessary for the Governor to mention as to which particular rule of the Business Rules was invoked by him to make such appointment for considering objections in respect of schemes published u/s 68-C of "the Act" for the purpose of modifying or approving the scheme. It might be stated here that the wordings of Rule 7(1) of the Rajasthan State Transport Services (Development) Rules, 1960 are identical to the wordings of Rule 6 (1) of the Rajasthan State Transport Service (Development) Rules, 1965. So also in Bariat Ullah Khan Vs. State of U.P. and Another, it was held that when an authority passes an order which is within its competence it cannot fail merely because it purports to be made under a wrong provision if it can be shown to be within its powers under any other rule. It was further held that validity of an order has to be judged on a consideration of its substance end not on its form. Therefore, when an order is passed by an authority competent to pass it under one provision of law. it has to be held to be valid even though the authority might have purported to pass it under another provision of law under which it had no power to do so.

14. The learned counsel for the petitioners in this connection relied upon Shyama Charan Sri Ram Saran Vs. The State, In that case lease of stone quarry No. 1119 in Fidusar area was granted to one T by the Mining Engineer, Jodhpur. One K filed appeal to the Director of Mines and Geology, which was dismissed. A second appeal was filed to the Government, which was heard by the Secretary, who made a note to the effect that the appeal be accepted and lease of the quarry in question be granted to K. The minister Incharge approved the same. In these circumstances the writ petition was filed challenging that Secretary had no authority to hear the appeal. The stand of the respondent was that the Deputy Minister had passed an order that the Secretary may hear and dispose of the appeal. It was held that cases are to be disposed of by or under the authority of Minister Incharge who may by standing order give directions for disposal of cases in the departments and copies of such standing orders shall be sent to the Governor and the Chief Minister. The writ petition was accepted on the ground that it was heard by the Secretary, whereas It was decided by the Minister, which was against the spirit of the Rules. I fail to understand how can this authority be of any help to the petitioners.

15. Then it was urged that the appointment of the Joint Legal Remembrancer to hear the objections u/s 68-D of "the Act" is against Rule 21 (1) of the Rules of Business, which stands as follows:--

"21. (1) Except as otherwise provided by any other rule, cases shall ordinarily be disposed of by or under the authority of the. Minister-in-Charge or the Minister of

State in-charge as the case may be who may by means of standing orders, give such directions as he thinks fit for the disposal of cases in the department. Copies of such standing orders shall be sent to the Governor and the Chief Minister.

(ii)"

It was therefore, urged that objections could be heard either by the Minister concerned or by a person duly authorised by the Minister as required under this sub-rule and since the notification appointing Joint Legal Remembrancer to hear the objections does not show that he was authorised by the Minister-in-Charge he has no authority to hear the objections and dispose of the schemes u/s 68-D of "the Act", After giving anxious consideration to this argument, I am, however, of the view that this is also of no avail to the petitioners. From the first few words of this sub-rule it is clear that it is to be read subject to the provisions of any other rule. Rule 6 of the Rajasthan State Transport (Development) Rules, 1965 says that the objections received in respect of schemes published u/s 68-C of "the Act" shall be considered by such officer as is authorised to do so by or under the Rules made by the Governor in pursuance of Clause (3) of Article 166 of the Constitution of India. This clearly shows that the Governor could authorise an officer of the State Government also to act u/s 68-D of "the Act". In *Tej Ram and Others Vs. State of Rajasthan and Others*, also it was held that the function u/s 68-D of "the Act" can be discharged both by the Minister and the officer of the Government who is invested with the power. It was further held that the State Government can assign this function to the Joint Legal Remembrancer who is borne on the Rajasthan Higher Judicial Service and It cannot be said that the officer suffers from any bias as would disqualify him from hearing the objections approving the scheme. It was held in that case also that the appointment of the Joint Legal Remembrancer as an authority for approving the scheme and hearing the objections in relation thereto is not Invalid and inoperative.

16. It might be stated here that on 22-5-1970 while confirming the stay order passed by this Court on 13-3-1970 vide Annexure P/4 in the previous writ petitions referred to in the facts of writ petition No. 76 of 1971 this Court clarified that it was open to the competent authority to consider the proposed scheme, if there was any other valid notification issued in that regard. Again on 31-7-1970 when these writ petitions were dismissed as infructuous it was observed by the Court that the Joint Legal Remembrancer could now take proceedings under the new notification vide Annexure P/6.

17. Then it was contended by the learned counsel for the petitioners that the jurisdiction of the Joint Legal Remembrancer would be deemed to have been taken away by notification of the State Government dated 14-7-1970. By that notification the Governor authorised Deputy Legal Remembrancer to consider the objections in respect of the schemes published u/s 68-C of "the Act". This, however, does not mean that the notification dated 30-5-1970 authorising Joint Legal Remembrancer to go into the schemes u/s 68-D of "the Act" was

superseded or vacated. It appears that since a number of schemes were required to be considered, the Governor thought it proper to authorise Deputy Legal Remembrancer also to act u/s 68-D of "the Act". The argument of the learned counsel for the petitioners that this concurrent jurisdiction could raise confusion in the minds of the operators as to which scheme would be considered by which authority- There is no force in this contention as, well. Annexures P/7 and P/8 in writ Petition No. 76 of 1971 are the general notices issued by the Deputy Legal Remembrancer and the Joint Legal Remembrancer respectively intimating the dates when they were to hear the particular scheme. In these very notifications particular schemes have also been mentioned. As such no confusion could arise as to which authority was to consider which particular scheme.

18. Then it was urged that after the passing of the notification dated 30-5-1970 by the Government cases should have been re-sent to the Joint Legal Remembrancer, There is no force in this argument as well. The cases already entrusted were lying with the Joint Legal Remembrancer, because of the stay order in the previous writ petitions. No work was being done in those cases by the Joint Legal Remembrancer After the issue of notification dated 30-5-1970 those writ petitions were dismissed as infructuous on 31-7-1970. After that the Joint Legal Remembrancer issued notices regarding the dates of further proceedings before him, there was nothing wrong or illegal. The returning of cases by the Joint Legal Remembrancer to the Government and the forwarding of the cases again by the latter to the Joint Legal Remembrancer would have been nothing but empty formalities and delaying the matter due to red tapism.

19. As regards the Invalidity of the Raiasthan State Road Transport Services (Development) Rules. 1965 it was first urged that according to Section 68-C of "the Act" the scheme regarding any area or route is to be pre-pared by the State Transport Undertaking, whereas in these cases the schemes were prepared and published by the General Manager of the State Transport Undertaking and that this was done because of Rules 3 and 4 of the Rajas-than State Road Transport Services (Development) Rules. 1965. In this connection it was further urged that these rules being contrary to the provisions of Section 68-C of "the Act*", are invalid,

20. It might be stated here that these allegations are not to be found in the main writ petitions. In all the four petitions these allegations were raised by means of application dated 3-11-1971 seeking amendments in the petitions. The amendment of the writ petitions as such was not allowed. However the petitioners were told to be at liberty to have their arguments involving purely law points. Since the question whether the schemes were prepared by the State Transport Undertaking or by Its General Manager is a question of fact and the respondent No. 3 has nowhere admitted so in favour of the petitioners, it cannot be allowed to be raised. With this the question of deciding whether Rule 3 of the said Rules which says that the scheme shall be prepared by the General Manager of the State Undertaking is invalid, does not require consideration in these writ

petitions. As regards Rule 4 is concerned, it does say that scheme will be published by the General Manager, and the schemes Annexure P/1 in Writ Petition No. 76 of 1971 and Annexure P/2 in the rest of the writ petitions also go to show that the same were published by the General Manager of respondent No. 3. However, the wordings used in this respect in Section 68-C are: "the State Transport Undertaking may prepare a scheme -- and shall cause every such scheme to be published --" Thus it is clear that the respondent No. 3 could have caused the schemes published through its General Manager. Rule 4 of the said Rules, therefore can be struck down as invalid.

21. So far I have dealt with the arguments regarding the jurisdiction of the Joint Legal Remembrancer and the invalidity of certain Rules which were raised in all the four writ petitions. I am of the opinion that the Joint Legal Remembrancer has jurisdiction in all these cases to function u/s 68-C of "the Act".

22. It will be now proper to deal with the other contentions raised in the two sets of petitions separately.

23. In writ petition No. 76 of 1971 It was contended that the Joint Legal Remembrancer had no authority to refuse to record the evidence of the petitioners in respect of their objection. To recapitulate the relevant facts it might be stated here that the Scheme of Aimer -- Bhilwara and Aimer -- Bhinai were published in the Rajasthan Rajpatra dated 13-1-1966. Section 68-D of "the Act" provides for the filing of the objections to the scheme published u/s 68-C of "the Act" and the time prescribed for that purpose is "within thirty days from the date of its publication in the official Gazette". This very thing is provided in Rule 5 of the Rajasthan State Road Transport Services (Development) Rules. 1965. The petitioners, however, did not avail of that opportunity and presented the objections on 1-3-1966 i. e., much after the prescribed period had passed. They were, therefore not entitled to be heard. Their contention, that because they do not subscribe the Rajasthan Rajpatra, they could not come to know about the publication of the scheme earlier is simply to be rejected. Their other contention that they were also asked to produce evidence and when they were ready with the same it could not have been refused is also hardly tenable. Suffice it to say that by Annexure P/13 dated 26-10-1970 the Joint Legal Remembrancer repelled the argument regarding his want of jurisdiction not only in respect of the two schemes relating to the petitioners, but that is a common order passed in respect of 20 schemes. Then again various other persons had filed objections regarding Ajmer -- Bhilwara and Ajmer -- Bhinai routes and their objections were presented within limitation. Annex. P/15 dt./- 26-10-1970 which directs the objectors to file the list of witnesses within ten days must be taken to have been meant for all those objectors who had filed the objections within limitation. Simply because all objectors in respect of these schemes were represented by one lawyer will not mean that the petitioners whose application for condoning the delay in the filing of objections was rejected on the same day i. e., on 26-10-1970 vide Annexure P/14, were also directed to file the list of witnesses,

or were allowed to produce their evidence. The learned counsel suggested that In the circumstances of the case it might be held that the delay in the filing of the objections by them was impliedly condoned. I, however, fail to appreciate this argument. In the first place the Joint Legal Remembrancer was not authorised to condone the delay. In the second place when their application for getting the delay condoned was specifically rejected on 26-10-1970 by a separate order, it cannot be taken that the petitioners were impliedly asked to file the list of witnesses or to produce their evidence.

24. In regard to the other three petitions it was urged that the Joint Legal Remembrancer committed wrong in not substituting the names of these petitioners in the place of their predecessor-in-title Chhoturam Roodmal even when the permit issued was duly transferred in their names vide Annexure P/I. It was further urged that the Joint Legal Remembrancer allowed these petitioners to produce their evidence in respect of the objections, but when they were not allowed to be substituted as transferee of the permit, it was no use of their producing evidence, because in case the scheme was approved, they will not be entitled to get any alternative permit or compensation. There is some force in this contention. The permit on Jaipur -- Nawa amalgamated route Annexure P/1, which is now held by the petitioner was originally owned by Chhoturam Roodmal. Because of this permit Chhoturam Roodmal filed objection to the schemes which were affecting him adversely. After that, the permit was transferred in favour of the present petitioner and he on 5-10-1970 applied to be substituted in place of Chhoturam Roodmal in the objections filed by the latter.. Since the permit which authorised Chhoturam Roodmal to file objections came to be duly transferred in favour of the present petitioner, Chhoturam Roodmal must have lost all legal interest in those permits. The petitioner can legally claim to hold all such interest. Upon the analogy of the case reported in Dhani Devi Vs. Sant Bihari and Others, the petitioner can be allowed to be substituted in place of Chhoturam Roodmal in all the objections filed by latter upon the basis of Permit Annexure P/I and the Joint Legal Remembrancer was certainly not justified in refusing this demand of the petitioner. It is evident that unless the petitioner is recognized as objector, he will not be entitled to get any alternative permit or compensation in case the concerned scheme is approved by the Joint Legal Remembrancer and is made law.

25. The result of the above discussion is that writ petition No. 76 of 1971 filed by Lal Chand and others fails and is hereby dismissed with costs to respondent No. 3.

26. The writ petitions Nos. 118, 119 and 121 of 1971 filed by Hari Singh is allowed in part. His objection that the Joint Legal Remembrancer has no jurisdiction to proceed u/s 68-D of the Motor Vehicles Act is rejected, but the joint Legal Remembrancer is directed that this petitioner may be substituted in the place of original objector Chhoturam Roodmal after hearing the latter as he is not party to these writ petitions. It is however, made clear that in case the

petitioner is substituted as objector he will not be entitled to file any fresh objections. He shall simply step in the shoes of Chhoturam Roodmal with all his rights and liabilities as well. No order as to costs in these three writ petitions. Let appropriate writs be issued.