

(1974) 01 RAJ CK 0017

In the Rajasthan High Court

Case No : Civil Writ Petition No. 360 of 1973

Madhya Pradesh State Road Transport Corporation

APPELLANT

Vs

State Transport Authority Jaipur and Another

RESPONDENT

Date of Decision : 04-01-1974

Acts Referred:

Motor Vehicles Act, 1988 — Section 63, 68F(1)

Citation : (1974) WLN 47

Hon'ble Judges : M.L. Loshi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

M.L. Joshi, J.—The Madhya Pradesh State Road Transport Corporation, hereinafter called the Corporation proposed a Scheme No. 73 under the provisions of Section 68-C of the Motor Vehicles Act, hereinafter called the Act. The scheme was published in Madhya Pradesh Rajpatra dated 31st December, 1965. This scheme amongst others related to following three inter statal routes lying partly between the territories of State of Rajasthan and State of Madhya Pradesh respectively:-(1) Neemuch--Chhoti Sadari. (3) Neemuch--Chhiturgarh. (3) Nemuch--Singoli Begun Prior to the proposed scheme there had been a reciprocal transport agreement between the State of Rajas-then and State of Madhya Pradesh under the provisions of Section 63 of the Act in the year 1963. Under the proposed scheme the Corporation proposed to take over the transport services mentioned above. This proposed scheme was considered by the State Government of Madhya Pradesh and the same prior to the approval by the State Government received the concurrence of the Stole Government of Rajasthan and also that of Central Government. After (sic) of the State of Rajasthan end approval of the Central Government the scheme was approved and was notified in the Madhya Pradesh Rajpatra dated 8-1-1971, a copy of which is placed on the record as Annexure C. Thereafter the petitioner Corporation applied for the issue of permit under the scheme to the State Transport Authority Madhya Pradesh in

accordance with the provision of Section 68-F (1) of the Act. The permits were granted to the (sic) on 30th of March, 1971 but as they related to inter-statal route they required the counter-signature of the Rajasthan State Transport Authority. Accordingly the petitioner Corporation applied for the same under the covering letter dated 30th of March, 1971. The State Transport Authority Rajasthan, the respondent No. 1. considered the matter of grant of counter-signature but refused to counter-sign the permits vide its communication dated 4-1-1971 & 3-6-1971 for the routes in question on the ground that the reciprocal transport agreement arrived at between the two parties in the year 1968 does not contain reciprocity in regard to routes in question. The petitioner therefore approached the State Transport Authority Madhya Pradesh on 24-4-1971 and prayed for persuading the respondent No. 1 to grant counter-signature on the permits referred to above. Thereupon the State Transport Authority Madhya Pradesh requested the respondent No. 1 to reconsider the matter and grant counter-signatures on the permits in question. The respondent No. 1, however, did not concede to the demand of the State Transport Authority MP. The petitioner, therefore, feels aggrieved by the orders dated 1-4-1971 and 3-5-1971 refusing the counter signatures on the permits and prays for quashing orders dated 1-4-1971 and 3-5-1971 & also for a writ in the nature of mandamus to command the respondent No. 1 to counter-sign the permits of the petitioner in respect of the inter-statal routes (1) Neemuch-Chhoti Sadari, (2) Neemuch-Chittorgarh and (3) Neemuch-Singoli Bagun.

2. The State opposed the writ petition on the ground that there is no reciprocal agreement u/s 63 occurring in chapter IV of the Act and therefore the petitioner is not at all entitled to the grant of counter-signatures on its permits.

3. Mr. Raj Narain has contended that once the scheme in regard to the inter-statal route has been approved, the scheme becomes the law and it is binding on both the States, namely, State of Rajasthan and the State of Madhya Pradesh and the State Transport Authority can not make a valid excuse on the ground that there is no reciprocal agreement in regard to the routes in question. The submission of the learned Counsel in this behalf is that chapter IV has overriding effect by virtue of Section 68-B of the Act. Once the scheme is approved the petitioner is entitled to the grant of counter-signature u/s 68-F(1) of the Act. The provisions in regard to the reciprocal agreement which occur in chapter IV shall yield to the provisions contained in chapter IV A of the Act. In this connection learned Counsel for the petitioner has cited *Indranarayan Vs. Roop Narayan and Another*, and *S.A Khader v. Mys. R.A. Tribunal* AIR 1973 SC 534 learned Counsel has also relied upon *H.C. Narayanappa and Others Vs. The State of Mysore and Others*, The learned Deputy Government Advocate has, however, again repeated the contentions made in the reply.

4. Having heard both the counsel for the parties I am of the opinion that this writ petition must be accepted. It has to be remembered that the schemes for routes in question were finalised after the concurrence of the respective States & that

too after receiving "he approval of the Central Government It is not disputed that the schemes relate to inter statal routes & have received the concurrence of the Central Government also. It has therefore, the force of law and is binding on the concerned parties. The absence of a reciprocal agreement cannot be a valid excuse for the State Transport Authority Raj for refusing the grant of counter-signatures on the permits in regard to the inter statal (sic) in as much as the provisions of Section 63 of the Act will yield to the provisions of Section 68 F (1) of the Act. The position of law in this behalf is well settled. In S. Abdul Khader Saheb Vs. The Mysore Revenue Appellate Tribunal, Bangalore and Others, it has been held that scheme of nationalise ion approved u/s 68 D of the Act would prevail over inter State agreement in respect of an inter State route. Similar view has taken in Indranarayan Vs. Roop Narayan and Another, . No authority to the contrary has been brought to my notice by the learn d Deputy GOVT. Advt In H.C. Narayanappa and Others Vs. The State of Mysore and Others, it his been held that the scheme has force of law and is binding on the State Transport Authority. The State Transport Authority has, therefore, failed to exercise its jurisdiction vested in law when it refused to grant the counter signature on the perm is in regard to the above referred to routes .The order dated 1st April, 1971 and 3-5 1971, therefore, will have to be quashed.

5. Accordingly the writ petition is accepted, the impugned order dated 1-4-1971 and 3-5-1971 refusing the counter signatures on the permits in question are hereby quashed. The respondent No. 1 is further directed to countersign the permits of the petitioner in respect of the three inter statal routes referted to above. In the facts and circumstances of the case, the parties are left to bear their own costs.