

**Ratanlal Vs. the Chairman, Regional Transport Authority, Bikaner Region, Bikaner and ors.**

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**Court :** Rajasthan

**Decided On :** Feb-27-1969

**Reported in :** AIR1970Raj125

**Judge :** Kan Singh, J.

**Acts :** [Motor Vehicles Act, 1939](#) - Sections 44, 44(3), 45 and 63

**Appeal No. :** Civil Writ Petn. No. 209 of 1969

**Appellant :** Ratanlal

**Respondent :** The Chairman, Regional Transport Authority, Bikaner Region, Bikaner and ors.

**Advocate for Pet/Ap. :** B.L. Maheshwari, Adv.

**Disposition :** Petition dismissed

**Judgement :**

ORDER

Kan Singh, J.

1. By this writ petition the validity of a resolution of the State Transport Authority, Jaipur (Annexure-8) is questioned. I may read that resolution:

'In exercise of the powers under Section 44 Sub-section (3) (b) of the Motor Vehicles Act the State Transport Authority Rajasthan resolves that with effect from the date of the publication of this resolution in the Official Gazette (1) the State Transport Authority shall hereafter grant all types of permits, renewals, transfers etc., on Inter-Regional and Inter-Statal routes. In respect of these routes S.T.A., shall perform all the duties, hitherto being performed by the Regional Transport Authorities.

(2) All types of permits on Inter-Statal routes shall be countersigned by the S. T. A.'

Sd/- Inder Singh Shekhawat

Secretary State Transport Authority,

Rajasthan, Jaipur.'

The petitioner contends that this resolution is bad, because according to the provisions of Section 44 (3) of the [Motor Vehicles Act, 1939](#), hereinafter to be referred as the 'Act', the State Transport Authority could not have taken upon itself the functions of the Regional Transport Authority in relation to an inter-statal route. Section 44 empowers the State Government to constitute, for the State, a State Transport Authority to exercise and discharge the powers and functions specified in Sub-section (3) thereof and it shall in like manner constitute a Regional Transport Authority to exercise and discharge throughout such areas referred to as regions as may be specified in the notification in respect of each Regional Transport Authority. Sub-section (3) which is the main provision that falls to be considered reads as follows:--

'Sub-section (3). A State Transport Authority shall give effect to any directions issued under Section 43, and subject to such directions and save as otherwise provided by or under this Act shall exercise and discharge throughout the State the following powers and functions, namely:--

(a) to co-ordinate and regulate the activities and policies of the Regional Transport Authorities, if any, of the State;

(b) to perform the duties of a Regional Transport Authority where there is no such Authority and, if it thinks fit or if so required by Regional Transport Authority, to perform those duties in respect of any route common to two or more regions;

(c) to settle all disputes and decide all matters on which differences of opinion arise between Regional Transport Authorities; and

(d) to discharge such other functions as may be prescribed.'

2. Sub-section (3) of Section 44 makes it incumbent on the State Transport Authority to give effect to any directions issued under Section 43 of the Act. It is only subject to such directions and save as otherwise provided that the State Transport Authority has to exercise its powers and functions laid down in Clauses (a) to (d) of that sub-section. Generally, the State Transport Authority has to act as a coordinating authority to regulate the activities and policies of the Regional Authorities. Clause (b) enables the State Transport Authority to perform certain functions of the Regional Authorities under the stated conditions. In my view, this Sub-section (b) could be broken as follows:--

(1) The State Transport Authority shall exercise and discharge throughout the State the powers and functions by performing the duties of a Regional Transport Authority where there is no such authority.

(2) If the State Transport Authority thinks fit, or if so required by a Regional Transport Authority, to perform those duties in respect of any route common to two or more regions.

3. The second part can be further subdivided as follows:--

(a) If the State Transport Authority thinks fit it can perform those duties (by which is comprehended the duties of the Regional Transport Authority) in respect of any route common to two or more regions; and

(b) the State Transport Authority shall, if so required by the Regional Authority to perform those duties in respect of any route common to two or more regions,

4. According to the plain reading of the sub-section there are three contingencies under which the State Transport Authority will be taking upon itself the normal functions of the Regional Transport Authority. The first contingency is when there is no Regional Transport Authority functioning in any region. There the Legislature has not left a vacuum and when there is no Regional Transport Authority, the State Transport Authority, will fill the vacuum and discharge the duties of the Regional Transport Authority. It has to be remembered that the purpose of enacting Section 44 is to erect the apparatus for the discharge of various statutory functions created by the Act. Therefore, it is legitimate to infer that as soon as there is no Regional Transport Authority available in any region its place will ipso facto be taken by the State Transport Authority. The second contingency is where the State Transport Authority thinks fit to perform those duties in respect of any route common to two or more regions and then it can rightly take upon itself such duties. Here again, it has to be remembered that the State Transport Authority, which is created for the entire State, plays the role of a coordinating body and it may very well think in a given situation that the co-ordination will be better advanced by taking upon itself the functions of the Regional Transport Authority in relation to a route which runs through more than one region. The third contingency is when a request has been made by a particular Regional Transport Authority.

5. Learned counsel for the petitioner contended that this construction will militate against the scheme of the Act. According to learned counsel, under Section 64-A of the Act the State Transport Authority has been created as the Revisional Authority and, therefore, if the State Transport Authority were itself to act as the Regional Authority, an applicant will be losing the remedy of a revision under the statute. Having considered this matter carefully I am not persuaded to accept this contention. In the first place, this power of taking over the functions of the Regional Transport Authority has been given to the State Transport Authority only in respect of routes which run in two or more regions and, therefore, Section 64-A will undoubtedly operate in respect of routes lying within one region only where the matter has been dealt with by the Regional Transport Authority of that region. There is nothing wrong if a party is not left with the remedy of a revision if the matter comes to be dealt with by the State Transport Authority itself. Revisional jurisdiction is created with a view to enabling superior authorities to correct the errors of inferior authorities and if the matter is dealt with by a superior authority, in the first instance there may be no necessity of making provision for a revisional authority.

6. Learned counsel then submitted that Sub-section (3) of Section 44 does not deal with inter-statal routes and, therefore, the State Transport Authority could take over functions of the Regional Transport Authority in relation to routes lying within two regions of the same State only. In this connection learned counsel referred me to Sections 45 and 63 of the Act. Section 45, according to learned counsel, makes a distinction between routes which lie in two regions of the same State and routes which lie within different States. This is so, but that, in my opinion, does not afford any help in the matter. Section 45 may be reproduced for appreciating this aspect of the matter:

'Section 45. General provisions as to applications for permits. Every application for a permit shall be made to the Regional Transport Authority of the region in which it is

proposed to use the vehicle or vehicles:

Provided that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles:

Provided further that if it is proposed to use the vehicle or vehicles in two or more regions lying in different States, the application shall be made to the Regional Transport Authority of the region in which the applicant resides or has his principal place of business.'

7. It is true, in the case of a route lying in two regions of the same State the application has to be made before a Regional Transport Authority in which the major portion of the route or area lies and in the case of an inter-statal route the application has to be made before the Regional Transport Authority of the region in which the applicant resides or has his principal place of business. The difference in the procedure regarding the filing of applications is on considerations of convenience, but what is remarkable in this section is that the so-called inter-statal route is not described as such. On the other hand, the only distinction as brought out in this section is that one category of routes are known as routes in two or more regions lying within the same State, and the other category of regions are known as two or more regions lying in different States. It is, to my mind, obvious that whenever the Legislature wanted to confine the provision to regions within the same State, it has chosen to say so in express terms. Likewise, whenever the term 'Regions' was meant for regions lying in different States, the Legislature has taken care to say so. If in this light Sub-section (3) of Section 44 is read then it is clear that in Sub-section (3) of Section 44 of the Act the Legislature has not confined the term 'region' or 'regions' only to regions lying within one State. It is, therefore, legitimate to infer that in Section 44 Sub-section (3) when it is said that the State Transport Authority may perform the duties of the Regional Transport Authority, in respect of any route common to two or more regions, the State Transport Authority, in my view, is entitled to discharge the functions of the Regional Transport Authority in relation to a route which lies in two regions lying in different States as well. In other words, the State Transport Authority can discharge the functions of the Regional Transport Authority in relation to a so-called inter-statal route which necessarily lies within the two regions of different States.

8. The material portion of Section 63 reads as follows:

'Section 63. Validation of permits for use outside region in which granted. -- (1) Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned:

Provided that a private carrier's permit granted by the Regional Transport Authority of any one region with the approval of the State Transport Authority, for any area in

any other region or regions within the same State shall be valid in that area without the counter-signature of the Regional Transport Authority of the other region or of each of the other regions concerned,

(2) A Regional Transport Authority when countersigning the permit may attach to the permit any condition which it might have imposed if it had granted the permit, and may likewise vary any condition attached to the permit by the Authority by which the permit was granted.

(3) The provisions of this Chapter relating to the grant, revocation and suspension of permits shall apply to the grant, revocation and suspension of counter-signatures of permits.

Provided that it shall not be necessary to follow the procedure laid down in Section 57 for the grant of counter-signatures of permits, where the permits granted in any one State are required to be countersigned by the State Transport Authority of another State or by the Regional Transport Authority concerned as a result of any agreement arrived at between the States.

This section provides for counter-signatures of permits for vehicles running on routes lying in more than one region. If the route lies in more than one region of the same State, the counter-signature is to be done by the Regional Transport Authority of the other region and if the routes lie in more than one region of two different States, then the counter-signature may be given by the State Transport Authority or the Regional Transport Authority of that State. Clothing of both the State Transport Authority of the State as well as the concerning Regional Transport Authority is clearly suggestive of the fact that in the matter of inter-statal routes the Legislature has clearly contemplated the discharging of functions of the Regional Transport Authority by the State Transport Authority. It is true, where there is an agreement of reciprocity between the two States for the counter-signatures the procedure of Section 57 of the Act need not be followed, but that has nothing to do with the performance of functions of the Regional Transport Authority by the State Transport Authority in the matter of permits over a route running in two different States. Therefore, the resolution Annexure 8, does not, in my opinion, go counter to either the scheme of Section 44 or Section 45 or Section 63 of the Act for that matter.

9. Before parting with the case I may notice one more submission of the learned counsel that the word 'any' occurring before the word 'route' in Clause (b) or Sub-section (3) of Section 44 is significant and it shows that it is only in a particular situation that the State Transport Authority can deal with the grant of permits over a route common to two or more regions. I regret, I have not been able to appreciate the submission. The term 'any' occurring before the term 'route' signifies, to my mind, that the power is exercisable in respect of any route which runs into two or more regions. Here the term 'any' is descriptive of the term 'route' and its purpose is to embrace all kinds of routes be they of any class whatsoever.

10. Thus, I do not find any force in the writ petition which I hereby reject in limine.