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B. H. ASWATHANARAYAN SINGH AND OTHERS

v.

STATE OF MYSORE AND OTHERS

April 23, 1965

B

[P. B. GAJENDRAGADKAR, C.J., K. N. WANCHOO, J. C. SHAH, J. R. MUDHOLKAR AND S. M. SIKRI, JJ.]

Motor Vehicles Act (4 *of* 1939), *ss.* 68*C and* 68*E—Specification of maximum and minimum number of vehicles and trips in approved scheme—Validity—Inter-State route, what is—Hearing objections on behalf of State Government—Who should.*

C

The State Transport Undertaking published a scheme in the Gazette for taking over the routes mentioned therein to the entire exclusion of the existing operators. Objections to the scheme were heard by the Chief Minister and the approved scheme with modifications was published. The draft scheme was published when the Rules of 1960 were in force and the approved scheme after the Rules of 1963 had come into force. Writ petitions were filed by various bus-operators challenging the validity of the approved scheme but they were dismissed.

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In their appeal to this Court, the appellants contended that: (i) It was not open, under the Motor Vehicles Act, 1939 and the Rules thereunder, to the State Government, when approving the scheme to specify minimum and maximum number of motor vehicles to be put on each route and the minimum and maximum number of trips to be made on each route and in so far as the approved scheme made such a provision it was *ultra vires;* (ii) As the draft scheme only specified the maximum number of vehicles and trips as required by the 1960 Rules, but the approved scheme provided both for minimum and maximum number of vehicles and trips on each route as required by the 1963 Rules, there was no opportunity to the objectors to put forward their objections to that feature of the scheme; (iii) Rule 3 cls. (e) and (f) and rule 12, of the 1963 Rules, which provided for the specification of the maximum and minimum number of vehicles and trips in the scheme and for variation of the frequency of services on a notified route without exceeding the maximum number, were *ultra vires;* (iv) The scheme could not be deemed to have been approved as it related to inter-State routes and the approval of the Central Government had not been obtained; and (v) The Chief Minister was not competent to hear objections on behalf of the State Government, but that it should have been done by the Minister in charge of Transport.

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HELD: (i) The specifying of both minimum and maximum number of vehicles and trips in the scheme was in accordance with the provisions of s. 68C and was not hit by s. 68E and was valid. [98 F-G]

Section 68C itself provides that "particulars of the nature of the services to be rendered" should be given in the scheme and the intention is that such details should be given as are necessary to enable the objectors to make their objections. When the section speaks of the nature of services to be rendered, it refers to the classes of motor vehicles for carrying passengers or goods or both, and the scheme has to indicate, which class of service is to be taken over. Also, the word "particulars" should be given its ordinary meaning of "details". There may be some

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difficulty in working out a scheme containing minimum and maximum number of vehicles and trips, where exclusion is partial as compared to a case where exclusion is complete, but the task of making a proper adjustment by the Regional Transport Authority is not insuperable and therefore, such a difficulty would not change the meaning of the word "particulars." Such details of the nature of services proposed to be rendered include not only the precise number of vehicles and trips but also the minimum and maximum number of vehicles and trips on each route; and such indication of the maximum and minimum number gives the necessary information to enable objectors to oppose the scheme even with reference to the adequacy of the service proposed to be rendered. Further, s. 46(c) and s. 48(3) (ii) indicate that specification of the minimum and maximum number of trips and vehicles is envisaged by the Act, and it is permissible and legitimate to refer to those sections, Besides, such a specification would subserve the purpose of Chap. IV-A of the Act, inasmuch as it will provide for a certain amount of flexibility in the service to be rendered. Such a provision for flexibility in the approved scheme itself, cannot be said to override s. 68-E or be a device to get round the section; and since the gap between the maximum and minimum, in the present case, was not wide, their fixation did not operate as a fraud on ss. 68C and 68E. [93A, D; E-G; 94 G-H; 95A, C-G; 97F; 98 B-GE]

Dosa Satyanarayanamurty v. *Andhra Pradesh State Road Transport Corporation,* [1961] 1 S.C.R. 642, distinguished.

C.P.C. Motor Service v. *State of Mysore,* [1962] Supp. 1 S.C.R. 717 and *C. S. Rowjee* v. *State of Andhra Pradesh,* [1964] 6 S.C.R. 330, explained.

(ii) The fact that there was some defect in the draft scheme, would not be fatal, if the approved scheme, as it finally emerged after the objections had been heard and decided under s. 68-D was in accordance with what was required by s. 68-C. [99E]

There was no violation of principles of natural justice, because, objection was taken to the impropriety of only indicating a maximum in the draft scheme and that objection was met by the State Government by modifying the scheme and including a minimum also. [99 G-H]

Dosa Satyanarayana Murty v. *Andhra Pradesh State Road Transport Corporation,* [1961] 1 S.C.R. 642, followed.

(iii) Since it was permissible to specify the maximum and minimum number of vehicles and trips under s. 68-C, and since r. 12 should be read as giving power to the Undertaking to vary the frequency between the maximum and minimum prescribed in the scheme, the rules are all valid. [100 F-G]

(iv) The two termini of the route being within the State, the scheme did not deal with inter-State routes. A road is different from a route and the criterion for determining if a route is intra-State or inter-State is to see whether the 2 termini are in the same State or not. [101 B-C]

(v) The authority under s. 68-D to hear objections is the State Government. Therefore, some living person must hear objections on its behalf. Since the rule framed by the Government nominates the Chief Minister as the authority, he was competent to hear the objections. [101 D-E]

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 250 and 286 of 1965.

A Appeals from the judgment and orders dated February 2, 1965 of the Mysore High Court in Writ Petition Nos. 1435 to 1438, 1445 to 1451, 1453 to 1461, 1496 to 1498, 1524, 1526 to 1528, 1541 to 1543 and 1721 of 1964.

N. C. Chatterjee, N. S. Narayana Rao, B. P. Singh, D. Gundu Rao, A. G. Meshwarappa, A. T. Sundaravardan and *R. B. Datar*, for the appellant (in C. A. No. 250 to 269 and 276 to 286 of 1965).

G. S. Pathak, B. Dutta, M. Rangaswami, J. B. Dadachanji, O. C. Mathur and *Ravinder Narain*, for the appellants (in C. As. Nos. 270—275 of 1965).

A. V. Viswanatha Sastri and *R. Gopalakrishnan*, for respondent No. 2 (in all the appeals).

The Judgment of the Court was delivered by :

Wanchoo, J. These 37 appeals on certificates from the judgment of the Mysore High Court raise common questions and will be dealt with together. The appellants are motor bus operators in the district of Bellary in the State of Mysore. It appears that two draft schemes for taking over passenger bus routes were published by the State Transport Undertaking (hereinafter referred to as the Undertaking) in May 1962. Objections to those schemes were heard by the State Government and the schemes were approved after some modifications and published in the Mysore gazette in August 1962. The approved schemes were however challenged by the motor bus operators who were operating in the district before the High Court by writ petitions and the two schemes were quashed by the High Court on September 24, 1962, for reasons into which it is unnecessary to go.

Then the Undertaking published another scheme on November 1, 1962 in the Mysore gazette for taking over the routes mentioned therein to the entire exclusion of the existing motor bus operators. This scheme was published under the State Transport Undertakings (Mysore) Rules 1960. Objections to the scheme were heard by the State Government on various dates in April and May 1963. In the meantime, the State Transport Undertakings Rules were under modification and the revised rules were published on April 25, 1963. The last date for hearing of objections by the State Government was May 23, 1963. On July 25, 1963, the Rules of 1963 came into force. The order of the State Government approving the scheme was made on April 18, 1964 and thereafter the approved scheme with such modifications

as the State Government had made was published in the gazette on May 7, 1964. Then followed applications by the Undertaking to the Regional Transport Authority for issue of permits in accordance with the scheme. Soon thereafter writ petitions were filed by various motor bus operators challenging the validity of the approved scheme in the first week of August 1964, and the implementation of the scheme was stayed by the High Court. On February 23, 1965, the High Court dismissed the writ petitions. Thereafter the High Court granted certificates to the appellants to appeal; and that is how the matter has come up before us.

A large number of contentions have been urged on behalf of the appellants to which we shall refer in due course. But the two main contentions that have been urged are: (i) it was not open, under the Motor Vehicles Act, No. 4 of 1939, (hereinafter referred to as the Act) and the Rule; thereunder, to the State Government when approving the scheme to specify minimum and maximum number of motor vehicles to be put on each route and minimum and maximum number of trips to be made on each route and insofar as the approved scheme makes such a provision it is *ultra vires*, and (ii) when the draft scheme was published in the Rules of 1960 were in force and the draft scheme only specified the maximum number of vehicle and trips on each route, but by the time the State Government disposed of the objections, Rules of 1963 had come into force and the approved scheme provided both for minimum and maximum number of vehicles and trips on each route. As, however, the minimum number was not specified in the draft scheme, there was no opportunity to the objectors to put forward their objections to this feature of the scheme and therefore principles of natural justice had been violated by the State Government, which has been held to be a *quasi*-judicial authority for this purpose, when approving the scheme.

We shall deal with these two main objections first and then consider other points raised on behalf of the appellants. It is not in dispute that one fixed number of vehicles as well as of trips can be provided in the scheme. The question that arises is whether the fixing of a minimum and maximum number of vehicles and trips, as has been done in the approved scheme, is also permissible under the Act. This takes us to s. 68-C of the Act which may be reproduced here:

> "Where any State transport undertaking is of opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road transport service, it is necessary in the public interest that road

A transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking, whether to the exclusion, complete or partial, of other persons or otherwise, the State transport undertaking may prepare scheme giving particulars of
B the nature of the services proposed to be rendered, the "area or route proposed to be covered and such other particulars respecting thereto as may be prescribed, and shall cause every such scheme to be published in the Official Gazette and also in such other manner as the State Government may direct."

C It will be seen that if the Undertaking is of opinion, for reasons indicated in the section, to take over road transport services to the exclusion, complete or partial, of other persons, it has to frame a scheme, which has to be published in the official gazette and in such other manner as the State Government may direct. "Road
D transport service" means a service of motor vehicles carrying passengers or goods or both by road for hire or reward. Under the section the Undertaking may take over road transport services in general or any particular class of such service in relation to any area or route or portion thereof. In the present case the Undertaking decided to take over passenger services over various routes
E in the district of Bellary to the exclusion of all other persons. There is no dispute that the Undertaking in publishing the scheme acted in the manner required by s. 68-C. The dispute arises as to the contents of the scheme published by the Undertaking and the contention on behalf of the appellants is that under the relevant words of of s. 68-C, the scheme must only contain a precise
F number of vehicles and trips on each route and that if the scheme provides minimum and maximum number of vehicles and trips it will not be in accordance with s. 68-C. Stress is laid on behalf of the appellants on the following words in s. 68-C which provide for the publication of the scheme thereunder :

G "..... the State transport undertaking may prepare a scheme giving particulars of the nature of the services proposed to be rendered, the area or route proposed to be covered, and such other particulars respecting thereto as may be prescribed...."

H It will be seen that this provision is in two parts. By the first part the section itself provides what should be there in the scheme, namely—(i) particulars of the nature of the services to be rendered, and (ii) the area or route proposed to be covered. The

second part provides for such other particulars respecting thereto as may be prescribed by the rules. We have already indicated that rules have been framed for this purpose and it is not in dispute that the Rules of 1960 which were in force at the relevant time were complied with. In those Rules only the maximum number of vehicles and trips was required to be mentioned and that was done in the draft scheme, which was published. But the contention on behalf of the appellants is that the first part of the section to which we have referred requires two things, namely—(i) particulars of the nature of the services proposed to be rendered, and (ii) the area or route proposed to be covered. There is no difficulty as to the meaning of the words "area or route proposed to be covered" and the draft scheme did provide for the area or routes to be covered. It is however contended that when s. 68-C requires that the scheme should give particulars of the nature of the services proposed to be rendered, it was necessary that the scheme should provide only the precise number of vehicles and trips for each route—if not, in the draft, at any rate in the scheme finally approved by the State Government after hearing objections. It is said that when the section requires that the scheme should give the "particulars of the nature of the services proposed to be rendered", the word "particulars" used in the section necessarily imports that the scheme should specify the precise number of vehicles and trips for each route. Now the words "nature of the services proposed to be rendered" clearly refer to the class of service to be taken over. It is argued that the words "nature of the services proposed to be rendered" are different from the words "class of services proposed to be rendered" and have a wider meaning. It is further submitted that there was no reason for the word "nature" being used in this part of the section when the word "clays" was used in the earlier part of the section if the two meant the same. We are however of opinion that there is no substantial difference between the class of services which has been referred earlier in the section and the nature of services proposed to be rendered which is referred in the latter part of the section. Road transport service as defined in s. 68-A can be of three kinds, namely—(i) passenger service, (ii) goods services, and (iii) mixed goods and passenger service. Further passenger and goods services themselves could be of different types, as, for example, stage carriages [see s. 2(29)] goods vehicles [see s. 2(8)], contract carriages [see s. 2(3)], invalid carriages [see s. 2(10)], and motor cabs [see s. 2(15]. Therefore, when s. 68-C speaks of nature of services to be rendered it

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A refers to these classes of motor vehicles for carrying passengers or goods and the scheme has to indicate which class of service is to be taken over. It may be added that one of the meanings of the word "nature" given in the Concise Oxford Dictionary is "kind, sort, class", and it is this meaning which is intended by the use of this word in this part of the section.

B Besides indicating the class of services to be taken over, the section requires that the particulars with reference to the class of service to be taken over should also be indicated in the scheme. It is contended on behalf of the appellants that where, (for example) stage carriage services are being taken over, particulars C must indicate the exact number of motor vehicles that will be used on a particular route and the exact number of trips that they will perform in the course of a day and that this is essential to be given in the scheme to enable objectors to object to it particularly with respect to the adequacy of services to be rendered which is one of the conditions precedent for taking over the services under that D section. We are of opinion that the word "particulars" in the section has been used in its ordinary meaning. In its ordinary meaning, the word "particulars" means details or items : (see the Concise Oxford Dictionary). In the *Dictionary of English Law* by Jowitt, "particulars" with reference to a claim means the details of the claim which are necessary in order to enable the other side E to know what case he has to meet. They are intended to make quite clear the case of the party who furnishes them. Thus when s. 68-C provides for giving particulars of the nature of the services proposed to be rendered, the intention is that such details should be given as are necessary to enable the objectors to make their objections. We do not think that these details would neces- F sarily consist of the precise number of vehicles and trips to be used on each route. We see no difficulty in holding that the details of the nature of services proposed to be rendered may not only be in the form of a precise number of vehicles and trips but also in the form of minimum and maximum number of vehicles and trips on each route. Furnishing of minimum and maximum number of G vehicles and trips for each route would also in our opinion satisfy the requirement that *particulars* should be furnished of the services proposed to be rendered. Further the indication of minimum and maximum number of vehicles and trips for each route would give the necessary information to enable the objectors to oppose the scheme even with reference to the adequacy of the services pro- H posed to be rendered. We do not think that the appellants are right in submitting that when the word "particulars" is used in this part of the section, it can only be satisfied if the exact number of

vehicles and trips for each route is specified and that there is no other way of satisfying the requirement implicit in the use of the word "particulars". As we have already said the word "particulars" has been used in its ordinary sense and means details and the indication of the minimum and maximum number of trips and vehicles would also in our opinion be sufficient to give the objectors the necessary information to enable them to object with reference to the conditions precedent provided in the section for framing a scheme. It is obvious that the section itself has provided the absolute minimum information which must be given in the scheme to enable the objectors to object and that minimum consists of details with respect to the class of service proposed to be rendered and the area or route proposed to be covered. Other particulars are left to be prescribed by the rules as they are not of the same importance as the details with respect to class of service to be rendered and the area or route to be covered. We are therefore of opinion that if the scheme in leates both minimum and maximum number of vehicles and trips on each route it will be in accordance with the requirements of s. 68-C.

We may in this connection refer to s. 46(c) and s. 48(3)(ii) which also indicate that it is permissible to have minimum and maximum number of daily services in case of stage carriages in particular. Section 46 provides for application for stage carriage permits of two kinds—(i) in respect of a service of stage carriages, and (ii) in respect of a particular motor vehicle used as a stage carriage. Where a service of stage carriages has to be provided, cl. (c) of s. 46 provides for indicating the minimum and maximum number of daily services proposed to be provided in relation to each route or area and the time-table of the normal services. Section 48 which provides for grant of stage carriage permits by the Regional Transport Authority also provides in sub-s. (3) in the case of a service of stage carriages for attaching to the permit any condition relating to the minimum and maximum daily services to be maintained in relation to any route generally or on specified days and occasions. Number of vehicles would naturally depend upon the number of daily services, for the larger the number of daily services, the larger would be the number of vehicles required. These two sections therefore indicate that specification of minimum and maximum number of trips and vehicles is envisaged by the Act. It is true that these sections are in Chapter IV while s. 68-C is in Chap. IV-A, s. 68-B whereof provides that Chap. IV-A would have effect notwithstanding anything inconsistent therewith in Chap. IV. But in order to find out what particulars of the nature

A of the services proposed to be rendered have to be given under s. 68-C it would be permissible and legitimate to refer to these provisions in ss. 46 and 48. They indicate that a provision in the scheme of minimum and maximum number of trips per day would be sufficient in order that necessary information may be available to objectors to make their objections with respect to the adequacy B etc. of the services proposed to be rendered. But quite apart from this consideration we see no reason to hold that the word "particulars" as used in s. 68-C necessarily refers only to the precise number of vehicles and trips for each route and cannot take in the minimum and maximum number of vehicles and trips for each C route.

Besides we are of opinion that a provision for a minimum and maximum number of vehicles and trips would subserve the purpose of Chap. IV-A inasmuch it will provide for a certain amount of flexibility in the service to be rendered, for it cannot be disputed that transport needs may vary from season to season. This flexi- D bility provided by specifying the minimum and maximum would obviate the necessity of taking action under s. 68-E of the Act every time the Undertaking decided to make a minor change in the number of trips with the necessary change in the number of vehicles employed. We cannot accept the argument that provision of a minimum and maximum number in the scheme would be hit E by s. 68-E of the Act which provides for cancellation or modification of an approved scheme, for s. 68-E comes into play after the scheme has been approved under s. 68-D. Nor can the provision of flexibility by indicating the minimum and maximum number of vehicles and trips be said to be a device to get round s. 68-E, which deals with a situation after the scheme has been F approved. But where a scheme itself provides for minimum and maximum number of trips and vehicles and has been approved, it cannot be said that such approval is meant to over-ride s. 68-E, for even such an approved scheme may require radical alteration after some years when transport needs may have radically changed and in such cases action under s. 68-E would be necessary. G But this provision of flexibility providing minimum and maximum number in a scheme cannot *per se* be said to be an attempt to get round s. 68-E.

In this connection our attention is drawn to a decision of this Court in *Dosa Satyanarayanamurty* v. *Andhra Pradesh State Road Transport Corporation*(1). In that case r. 5 of the Andhra H Pradesh Motor Vehicles Rules was struck down on the ground that it violated s. 68-E. In that case the scheme provided for an

(1) [1961] 1 S.C.R. 642.

exact number of trips and an exact number of vehicles. Rule 5 however permitted frequency of services to be varied. It was in these circumstances that the rule was held to be *ultra vires* s. 68-E. But where the scheme itself provides for a minimum and maximum number of vehicles and trips there is no question of its being violative of s. 68-E. We are therefore of opinion that the provision of minimum and maximum number of vehicles and trips in the scheme as approved is not against the provision of s. 68-C as the section does not require that only an exact number of vehicles and trips for each route must be notified in the scheme.

Our attention is also drawn to *C.P.C. Motor Service* v. *The State of Mysore*(1). In that case at p. 727, following observations occur :

> "The earlier Rules required a statement as to the minimum and maximum number of vehicles to be put on a route, as also the minimum and maximum trips. It was however held by this Court that a departure from the minimum number would mean the alteration of the scheme, necessitating the observance of all the formalities for framing a scheme."

These observations are pressed into service to show that a minimum and maximum number cannot be prescribed in a scheme prepared under s. 68-C. It is true that there is an observation in that case that it had been held by this Court that a departure from the minimum number would mean an alteration of the scheme, necessitating the observance of all the formalities for framing a scheme. But learned counsel was unable to point out any case of this Court where it was held that a departure from the minimum in the case of a scheme which mentions both the minimum and maximum would require action under s. 68-E. The only case to which our attention was invited in this connection is that of *Dosa Satyanarayanamurty*(2); but in that case it was held that a departure from an exact number would require action under s. 68-E. However, that was not a case where the scheme itself fixed minimum and maximum. The scheme in that case fixed an exact number and it was held that a departure from such a number would mean modification of the scheme within the meaning of s. 68-E. The observation in *C.P.C. Motor Service's* case(1) that this Court had held that a departure from the minimum would mean alteration of the scheme therefore appears to have crept in *per incuriam*.

Lastly our attention is drawn to a judgment of this Court in *C. S. Rowjee* v. *The State of Andhra Pradesh*(3). In that case

(1) [1962] Supp. 1 S.C.R. 717. (2) [1961] 1 S.C.R. 642.
(3) 1964 6 S.C.R. 330.

A the question of indicating minimum and maximum in the scheme had come up for consideration. But the scheme in that case was quashed on the ground of bias and this Court had therefore no occasion to consider the question whether the indication of minimum and maximum in the scheme would make it *ultra vires* s. 68-C. Even so some observations were made in that connection
B at the end of the judgment. But the learned Judges made it clear that they had not thought it necessary to decide the larger question viz., whether the mere prescription of the maxima and minima constituted a violation of s. 68-E, as to require the scheme to be struck down. Therefore the observations in that case with respect to the fixing of minima and maxima must be treated as
C *obiter*. Further in that case it was argued on behalf of the State that indication of minima and maxima by itself would not be bad; but it was conceded that the gap between the minima and maxima should not be very wide. The Court assumed this position and then observed that in some of the cases gap between the minimum and maximum was very wide and if the scheme had not already
D been vitiated on the ground of bias, this Court might have struck it down on the ground that there was a wide gap between the minimum and maixmum. There is no doubt that though fixing of minimum and maximum number of vehicles and trips with respect to each route is permissible under s. 68-C and would not be hit
E by s. 68-E, the proportion between the minimum and maximum should not be so great as to make the fixing of minimum and maximum a fraud on ss. 68-C and 68-E of the Act. It is not possible to lay down specifically at what stage the fixing of minimum and maximum would turn into fraud; but it is only when the gap between the minimum and maximum is so great that it
F amounts to fraud on the Act that it will be open to a court to hold that the scheme is not in compliance with s. 68-C and is hit by s. 68-E. The gap between the minimum and maximum would depend upon a number of factors, particularly on the variation in the demand for transport at different seasons of the year. Even so if the approved scheme were to fix minimum and maximum
G with very wide disparity between the two, it may be possible for the court to hold after examining the facts of the case that such fixation is not in accordance with s. 68-C and is a fraud on s. 68-E. But, with respect, it seems to us that a variation in minimum and maximum from 6 to 12 or 5 to 9 can hardly be of such an order as to amount to fraud on the Act. The observations with
H respect to fixing of minimum and maximum number of vehicles and trips in the scheme made in *Rowjee's* case(1) must therefore

(1) [1964] 6 S.C.R. 330.

be treated as *obiter* as in that case they did not require determination. In the present case the gap is not of such a wide nature.

Then it is urged that whatever may be the position in a case of complete exclusion, fixing of minimum and maximum in relation to vehicles and trips could not be contemplated by s. 68-C where there is partial exclusion. Therefore if it could not be contemplated in the case of partial exclusion it could not be contemplated in the case of complete exclusion also. It may be assumed that there may be some difficulty in working out a scheme containing minimum and maximum number of vehicles and trips where exclusion is partial as compared to a case where exclusion is complete. Even so we do not think that that would change the meaning of the word "particulars" used in s. 68-C and necessarily imply that the particulars given must consist only of an exact number of vehicles and an exact number of trips. Further we are of opinion that though it may be assumed that certain difficulties may conceivably arise in carrying out a scheme which includes minimum and maximum in the case of partial exclusion the diifficulties are clearly not insuperable, and the Regional Transport Authority is there to work out the details where the scheme provides for a minimum and maximum number of vehicles and trips after taking into account the private operators who are allowed to ply their buses along with the Undertaking. The task of making a proper adjustment by the Regional Transport Authority is not insuperable and therefore we are not prepared to hold that because exclusion can be partial, particulars required by s. 68-C with respect to number of vehicles and trips must be precise.

We are therefore of opinion that specifying of both minimum and maximum number of vehicles and trips in the scheme under challenge is also in accordance with the provisions of s. 68-C and is not hit by s. 68-E. The contention of the appellants under this head is therefore rejected.

Then we come to the second main point raised in the case. It is urged that the draft scheme was framed when rules only required maximum number to be mentioned and the draft scheme mentioned the maximum. But in the approved scheme, this was modified and both the minimum and maximum were mentioned. So it is urged that as the minimum was not mentioned in the draft scheme which was in accordance with the Rules of 1960 as they then stood, it was not possible for the objectors to object with

A respect to the minimum which was introduced by the State Government by modification under s. 68-D of the Act. Therefore there was breach of principles of natural justice as the objectors had no opportunity to show that the condition precedent, namely, that the service was adequate, had been complied with. It may be accepted that there was a defect in the draft scheme inasmuch B as it only indicated the maximum number of services and not the minimum. But we are here concerned with the approved scheme after it was modified by the State Government in accordance with s. 68-D of the Act. It is also not quite correct on the part of the appellants to say that they could not object to the adequacy of C service because the minimum was not mentioned. We find that quite a few of the objectors appear to have objected that it was not enough to mention the maximum only in the scheme and that in the absence of the minimum the Undertaking might not run even one bus on a particular route. It was because of this objection that the State Government provided for the minimum in the D scheme. The fact that there was some defect in the draft scheme would in our opinion be not fatal if the approved scheme as it finally emerges after the objections have been heard and decided under s. 68-D is in accordance with what is required by s. 68-C. Nor do we think that it was not possible for objectors to raise the question of adequacy of services where only the maximum is specified. The approved scheme cannot in our opinion be struck E down if it is in accordance with s. 68-C merely because there was some defect in the particulars supplied in the draft scheme. We may in this connection refer to the case of *Dosa Satyanarayanamurty*[1] where also there was a defect in the draft scheme inasmuch as in certain cases the number of vehicles to be operated on F each route was not specified and one number was mentioned against many routes which were bracketted. An objection was taken with regard to this matter and the scheme was modified accordingly. This Court upheld the modified scheme and the same principle in our opinion applies to the present case where only the maximum was mentioned in the draft scheme and not G the minimum. We do not think that there was any violation of principles of natural justice because objection was taken to the impropriety of only indicating a maximum in the scheme and that objection has been met by the State Government by modifying the scheme and including a minimum also. The contention therefore on this head must fail.

H We shall now consider the other points raised on behalf of the appellants. It is urged that cls. (e) and (f) of r. 3 of the 1960-

1. [1961] 1 S.C.R. 642.

Rules are bad as they provide only for a maximum number of vehicles and trips. It is further urged that r. 12 of the 1960-Rules is bad inasmuch as it allows an Undertaking to vary the frequency of services operated on any of the notified routes or within the notified area without exceeding the maximum number of vehicles or services having regard to the traffic needs during any period. We are of opinion that it is unnecessary to consider the validity of these rules in view of the fact that they no longer exist. We should however guard ourselves by saying that we should not be understood as accepting the view of the High Court which has upheld the validity of these rules.

Then it is urged that cls. (e) and (f) of r. 3 of the 1963-Rules as well as r. 12 thereof are bad. Clauses (e) and (f) of r. 3 provide for the specification of maximum and minimum number of vehicles and trips in the scheme. We have already considered this question and have held that it is permissible to specify the maximum and minimum number of vehicles and trips under s. 68-C. Rules 3 (e) and (f) is in accordance with what we have held above and is therefore valid. Rule 12 lays down that where the services are run and operated to the complete exclusion of other persons by the Undertaking, it may, in the interest of the public, having regard to the traffic needs during any period vary the frequency of services operated on any of the notified routes or within any notified area without exceeding the maximum number of vehicles or services as enumerated in the approved scheme. This rule is ancillary to r. 3 (e) and (f) and comes into operation only where services are run to the total exclusion of other persons. In such a case this rule gives power to the Undertaking to vary the frequency of services upto the maximum limit. We are of opinion that this rule should be read as giving power to the Undertaking to vary the frequency of services within the minimum and maximum prescribed in the scheme. Read as such, we see no invalidity in this rule.

Then it is urged that the scheme cannot be deemed to have been approved as it relates to inter-State routes and the approval of the Central Government has not been taken as required under the proviso to s. 68-D (3). We are of opinion that there is no substance in this contention. An inter-State route is one in which one of the terminii is in one State and the other in another State. In the present case both the terminii are in one State. So it does not deal with inter-State routes at all. It is urged that part of the scheme covers roads which continue beyond the State

A and connect various points in the State of Mysore with other States. Even if that is so that does not make the scheme one connected with inter-State routes, for a road is different from a route. For example, the Grand Trunk Road runs from Calcutta to Amritsar and passes through many States. But any portion of it within a State or even within a District or a sub-division
B can be a route for purposes of stage carriages or goods vehicles. That would not make such a route a part of an inter-State route even though it lies on a road which runs through many States. The criterion is to see whether the two terminii of the route are in the same State or not. If they are in the same State, the route is not an inter-State route and the proviso to s. 68-D (3) would
C not be applicable. The terminii in the present case being within the State of Mysore, the scheme does not deal with inter-State routes at all, and the contention on this head must be rejected.

Lastly it is urged that the Chief Minister was not competent
D to hear the objections under s. 68-D and that this should have been done by the Minister in-charge of transport. The authority under s. 68-D to hear objections is the State Government. As the State Government is not a living person, some living person must hear the objections. Rule 8 provides that the Chief Minister shall be the authority to hear and decide the objections. We
E fail to see why, if according to the appellants the Minister in-charge of transport can hear the objections, the Chief Minister cannot do so when the rule framed by the Government under the Act nominates the Chief Minister as the authority to hear the objections on behalf of the State Government. There is no force in this objection and it is hereby rejected.

F

The appeals therefore fail and are hereby dismissed with costs—one set of hearing fee.

Appeal dismissed.