

Tikam Chand Vs. the Regional Transport Authority and ors.

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Court : Rajasthan

Decided On : Jan-30-1970

Reported in : 1970WLN52

Judge : Kan Singh, J.

Appeal No. : S.B. Civil Writ No. 364 of 1967 and 9 other petitions

Appellant : Tikam Chand

Respondent : The Regional Transport Authority and ors.

Disposition : Petition allowed

Judgement :

Kan Singh, J.

1. I have before me 10 writ petitions which arise out of or pertain to a resolution of the Regional Transport Authority, Udaipur dated 8th to 11th May, 1967, granting permits one each to respondents Nos. 2 to 4 in writ petition No. 364 of 1967, that is, Tikamchand v. Regional Transport Authority and others. It appears that there were a number of applications pending before the Regional Transport Authority, Udaipur for grant of permit over the route Udaipur-Kota via Fatehnagar, Kapasani Chittorgarh, Begun, Mandalgarh, Bijolia Neleshwar, Dabi. Petitioner Tikamchand was also an applicant for grant of a permit over this route. He has approached this

Court challenging this resolution inter alia on the ground that his application was not simultaneously considered and disposed of along with the applications of respondents Nos. 2 to 4 to whom the Regional Transport Authority granted the permits. Petitioner Gopal Das in writ petition No 542 of 1967, who was an existing operator on a portion of the route, has approached this Court and his grievance is that he filed objections against the applications and the Regional Transport Authority's meeting on 12th to 15th April, 1967, at which the matter is alleged to have been heard and considered, was not properly held. Also, according to him, the alleged meeting of the Regional Transport Authority at which the impugned resolution was passed could not have been held at Jaipur. These two writ petitions were filed in this Court in 1967. Some of the applicants to whom the Regional Transport Authority had not granted the permits had gone in appeal to the Transport Appellate Tribunal. The Transport Appellate Tribunal by its order dated 17-12-1968 (Annexure-12) had set aside the impugned resolution of the Regional Transport Authority and had consequently cancelled the permits granted to respondents Nos. 2 to 4 in writ petition No. 364 of 1967. The three erstwhile grantees of permits had come to this Court for challenging the appellate order of the Transport Appellate Tribunal 17-12-1968. These are writ petitions Nos. 15 of 1969, 39 of 1969. dated 4 of 1969, 1 of 1969 and 2 of 1969. The remaining two writ petitions are by Messrs. Jay Bharat Bus Service and Shankerlal, writ petitions Nos, 48 of 1969 and 85 of 1969 respectively. These petitioners were the successful appellants before the Transport Appellate Tribunal, but they felt aggrieved of a part of the order of the Transport Appellate Tribunal in that while remanding the case the Transport Appellate Tribunal directed that the applications of the appellants as also of the grantees whose permits were cancelled be considered along with other applications. It is contended that such of the applicants to whom permits were refused by the Regional Transport Authority and who had not gone in appeal to the Transport Appellate Tribunal could no longer claim consideration of their applications since they stand already rejected and they had not gone in appeal against such order of rejection. It will be convenient to narrate the relevant facts with reference to Tikam Chand's writ petition.

2. Tikam Chand applied for grant of permit over this route on 14-12-1965. He claims that he was the first person who had applied for the opening of this new

route. Like the petitioner some other persons also subsequently applied for grant of permits. Such applications were published in the Rajasthan Gazette in March, 1966 for inviting objections. The petitioner proceeds to say that no objections or representations at all were made by anyone against his application. A meeting of the Regional Transport Authority was fixed for 15/16/17-12-1966 for the consideration of the applications. The dates of the meeting were notified in the Rajasthan Gazette of 14-11-1966. The petitioner states that at this meeting the applications were not at all considered and it was announced by the Chairman that this route had been reserved for grant of alternative route permits to displaced operators of Udaipur Rikhabdeo, Udaipur-Ratanpur and Udaipur-Dungarpur routes. Pursuant to certain schemes of nationalisation, it was also declared that this route had already been offered to the displaced operators in accordance with Section 68G of the Motor Vehicles Act, 1939, hereinafter to be referred as the "Act" as also in accordance with the Rajasthan State Transport Services (Development) Rules, 1965, hereinafter to be referred as the 'Development Rules.'" It appears that on 4-10-1966, a notification was issued by the Regional Transport Authority, Udaipur under rule 10 of the Development Rules publishing the applications of the displaced operators of the nationalised routes and objections were invited within 15 days from the date of the publication of the notification. According to the petitioner, that it was the declared intention of the Regional Transport Authority to consider only the applications filed under Rule 10 of the Development Rules and it was not to consider the fresh applications like that of the petitioner. On 2-2-1967, the Regional Transport Authority notified that the remaining items of the agenda of the meeting fixed from 15th to 18th December, 1966 would be considered at a meeting to be held on 15th to 17th March, 1967. A notification was issued for this last mentioned meeting in which it was said that all the applications for grant of alternative route permits as well as the applications for grant of fresh permits would be considered. The petitioner states that he was present at the meeting held on 18th to 17th March, 1967, but the Chairman announced that this route Udaipur-Kota was reserved for grant of alternative route permits to displaced operators. In other words, the stand of the petitioner is that the Regional Transport Authority did not hear the applicants for grant of fresh permits. It appears that the displaced operators of the three nationalised routes had filed writ petitions in this Court

challenging the nationalisation schemes relating to their respective routes and the writ petitions were heard in the early part of 1967. The decision, however, was not pronounced for some-time. From 12-4-1967 to 15-5-1967 a meeting is said to have been held by the Regional Transport Authority at Udaipur. The petitioner submits that he had not received any intimation of that meeting, but somehow he happened to be present at the meeting and objection was raised by that no notification for holding the meeting had been issued and consequently the petitioner was taken unaware. The petitioner avers that even at this meeting the Chairman reiterated what he had said on the earlier meetings that the applications for grant of fresh permits would not be heard or considered until the matter relating to the grant of alternative route permits to displaced operators was disposed of. Petitioner further avers that at this meeting there was an uproar on account of certain persons making insinuations against the integrity of the Chairman and as a result of uproar and consequential disturbances the meeting has to be broken without transacting any business. Thus, according to the petitioner, the applications for grant of fresh permits or those for grant of alternative route permits were neither heard nor considered nor decided at this meeting. The petitioner further states that it was subsequently notified by the Regional Transport Authority that the meeting was adjourned sine die and the agenda of the meeting would be notified later on in the Rajasthan Gazette. The grievance of the petitioner is that in spite of what had been declared at these meetings from time to time and there being no hearing or consideration of the application of the petitioner as also those of others a spurious meeting was held at Jaipur and without there being prior notification or information to the parties a resolution purports to have been passed for granting permits to respondent No. 4. It is in these circumstances that Tikam Chand questions the validity of the Regional Transport Authority's resolution on Annexure-8.

3. It is contended by the petitioner that this resolution was bad, because no proper notice of the agenda for the meeting said to have been held at Udaipur between 12th to 15th April, 1967 was published. It is also contended that the petitioner's applications were required to be considered simultaneously with the applications of the concerning respondents and in that the Regional Transport Authority had failed to consider the petitioner's application, the resolution stands vitiated. It was next

contended that, in fact, there was no meeting of the Regional Transport Authority at Udaipur between 12th to 15th April, 1967 and the petitioner's application was neither heard nor considered. It is further contended that a meeting of the Regional Transport Authority could not have been held at Jaipur outside the territorial jurisdiction of the Regional Transport Authority, Udaipur. Then the resolution itself is challenggd on a number of grounds. It is submitted, in the first instance, that no reasons for refusing the application of the petitioner has been recorded as required by Section 57(7) of the Act. It is then submitted that the resolution does not disclose on what basis the concerning respondents were preferred to the petitioner and the other applicants. It is pointed out that the Regional Transport Authority as a quasi judicial body is bound to support its decision by reasons which have to be recorded. Then it was urged that the, Regional Transport Authority could not have decided the matter in bits. It was pointed out that the resolution for the meeting held between 12th to 15th April, 1967 shows that the objections were considered and dismissed, but the decision on the applications themselves was received. This, according to the petitioner, was wrong.

4. The petitioner sought permission to add some more grounds to the writ petition. When the application for it came up for hearing it was ordered that it would be considered when the case itself is heard. The respondents have filed their reply to this application for permission to add certain new grounds. After hearing the case I felt convinced that since the new grounds are based on the proceedings of the Regional Transport Authority itself and are vital to a correct decision of the case, they should be allowed to be argued.

5. The first ground was that before proceeding to grant permits over the newly opened route Udaipur-Kota, the Regional Transport Authority had not fixed any limit for permits under Section 47(3) of the Act. The second ground was that Shri Sahi, Deputy Inspector General of Police, who was present at the meeting of the Regional Transport Authority, held at Udaipur from 12th April to 15th April, 1967, and where the decision of the applications was reserved had not participated in the taking of the decision which is said to have been announced at Jaipur vide Annexure-8. Therefore it is urged that the body of persons who heard the matter

did not decide the matter, but less number of persons were parties to the decision. Reliance is placed in this regard on the proceedings signed by the Chairman to which reference will be made hereinafter at the appropriate place. Finally, it was urged that the minutes of the meeting culminating in the resolution Annexure-8, unlike all other minutes were signed only by the Chairman and not the other members of the Regional Transport Authority. This, according to the petitioner, was a curious feature and it has been pointed out that a decision of the quasi-judicial body like the Regional Transport Authority should partake of the character of a judgment in this respect and should be signed by all the members who participated in the hearing of the decision. There is one ground special to respondent No. 4, Messrs. Kailash Bus Service, and it is contended that this respondent was not even present at the meeting of the Regional Transport Authority said to have been held between 12th to 15th April, 1967 and, therefore, permit could not have been granted to this respondent.

6. The writ petition has been opposed by the respondents. The respondents deny that the resolution of the Regional Transport Authority was bad on any of the grounds taken by the petitioner. The respondents submit that there was a proper meeting of the Regional Transport Authority at Udaipur between 12th to 15th April, 1967 and the petitioner had notice thereof and in any case if he was present he cannot be heard to say that he had no notice of the meeting. It is submitted that the notification issued by the Regional Transport Authority in March, 1967 shows that all the applications, be they by the displaced operators or the fresh applicants, were to be considered at the ensuing meeting of the Regional Transport Authority to be held on 12th to 15th April, 1967; and therefore, it was wrong on the part of the petitioner to assert that the Regional Transport Authority or its Chairman had declared at any of the previous meetings that fresh applications for grant of permits would not be considered. Then the respondents try to take the petitioner at his word. They submit that if the petitioner's application was refused by the Regional Transport Authority then he could have gone in appeal to the Transport Appellate Tribunal and therefore, this Court should not hear him in exercise of its extraordinary powers under Article 226 of the Constitution. As regards the recording of reasons in the resolution of the Regional Transport Authority it is submitted that while granting the permits to the concerning respondents, even if no

reasons were recorded, that was a mere irregularity not sufficient to invalidate the resolution and as regards the non-recording of reasons for the refusal of the petitioner's application it was pointed out that the petitioner at best could ask for consideration of his application as there was still scope, for permits, but the permits granted to the concerning respondents should not be cancelled on that score. It is denied that the Regional Transport Authority had not fixed any scope for them. According to the respondents, by an earlier resolution passed in March 1967, the Regional Transport Authority had fixed the scope for permits over the route at 25. They have placed on record a copy of the resolution Annexure-R/4/2.

7. Since after the filing of the two writ petitions in 1967, the Transport Appellate Tribunal had by its order Annexure-12 (in writ petition No. 15/1969) dated 17-12-1968 cancelled the permits granted to the concerning respondents. I consider it just and proper to deal with the writ petitions pertaining to this order of the Transport Appellate Tribunal first, because if the writ petitioners in those cases were not successful, there could hardly be any occasion for dealing with the writ petitions filed in 1967 which would in logic of events become infructuous.

8. A perusal of the order of the Transport Appellate Tribunal shows that it found that the scope of 25 permits had been fixed on Udaipur-Kota route. On consideration of the impugned resolution of the Regional Transport Authority the Transport Appellate Tribunal found that no reasons were recorded in the resolution for refusing the applications for grant of permits to the appellants before it. Even there was nothing to show that the Regional Transport authority had kept the considerations embodied in Section 47 of the Act before it. In the words of the Transport Appellate Tribunal the Regional Transport Authority had failed to apply its mind to the matters specified in Section 47 of the Act while granting permits to the three respondents (here respondents in first two cases and petitioners in the other cases, as observed already) and it had thus ignored the provisions of Section 57(7) of the Act. According to the Transport Appellate Tribunal when the Regional Transport Authority acts in this manner the contravention of the provisions are not condonable under Section 134(2) of the Act, but the order of the Regional Transport Authority would be illegal. Then the Transport Appellate Tribunal took into consideration a notice issued by the Secretary on 14-4-67 to the

effect that the meeting of the Regional Transport Authority was adjourned sine die and the notice and agenda for the next meetings would be published in Rajasthan Rajpatra in due course. On account of this notice the Transport Appellate Tribunal came to the conclusion that it was not legal for the Regional Transport Authority to have held its meeting in the chambers of the Chairman of the Regional Transport Authority at Jaipur on 8th to 11th May, 1967 without publication of any notice or the agenda relating thereto in the Rajasthan Rajpatra. The Transport Appellate Tribunal eventually came to the conclusion that it would not be in the interest of the public to uphold the impugned resolution and as the material on record was not sufficient to enable the Transport Appellate Tribunal to decide the applications for the grant of permits on the route on their respective merits it remanded the case having set aside the resolution.

9. It will be seen from this that the writ petitioner has taken some of the grounds in his writ petition which have in some measure weighed with the Transport Appellate Tribunal in striking down the impugned resolution by its order dated 17-12 1968. Learned counsel for the erstwhile grantees attacked the order of the Transport Appellate Tribunal inter alia on the ground that in the appeals before the Transport Appellate Tribunal the appellant had not prayed for cancellation of the permits granted to the three concerning grantees but had only asked for reversal of the order of the Regional Transport Authority to the extent it related to the refusal of the applications of the appellants before the Transport Appellate Tribunal. In the circumstances it was contended that the Transport Appellate Tribunal was in error in cancelling the permit though it could have remanded the case for a proper consideration of the applications of the appellants before it. I ought to mention that in one of the writ petitions it has been urged that the grantees were not made respondents and, therefore, it is urged that in their cases the Transport Appellate Tribunal had acted not only without jurisdiction, but contrary to the principles of natural justice in cancelling their permits.

10. I have gone through the memo of appeals before the Transport Appellate Tribunal. It does not appear from the memos of the appeals that any prayer was made for the cancellation of the permits granted by the Regional Transport Authority. What the appellants desired was that the order of the Regional

Transport Authority to the extent it related to the refusal of the appellant's applications be set aside and permits be granted to them. In other words, the permits that were sought by the several appellants before the Transport Appellate Tribunal were in addition to the permits already granted by the Regional Transport Authority. In some of the appeals the grantees of permits had not even been impleaded as respondents. If the matter were to stand at that I would have had no hesitation in quashing the order of the Transport Appellate Tribunal in so far as it had cancelled the permits granted by the Regional Transport Authority, but as it will be clear from what I am going to say that the Regional Transport Authority, cannot be held to have given a decision which can be said to be one according to law in the accepted sense, there is no point in setting aside the order of the Transport Appellate Tribunal.

11. Learned counsel in the circumstances had concentrated on the writ petition filed by Tikam Chand. Tikam Chand has contended, as already observed, that his application was not Considered simultaneously with the applications of the concerning respondents and consequently the resolution was bad. He had also contended that the meeting of the Regional Transport Authority on 12th to 15th April, 1967 was not properly held for want of a notice of such meeting and further there was no proper hearing as on account of an uproar the meeting had to be abandoned. He has also urged that the Regional Transport Authority could not have held the meeting at Jaipur and passed the resolution. It was also urged that one of the members Shri Sahi who had participated according to the minutes at the meeting held at Udaipur, was not a party to the decision and consequently the decision was bad. I may at this stage read the two resolutions of the Regional Transport Authority purporting to have been passed at Udaipur and Jaipur respectively. The first one is Annexure-R-4/3 at page 161 of the paper book and it reads as under:

Copy of resolution No, 1 and Item, No. 1(a) and 1(b) of the R.T.A. meeting held from 12th to 15th April, 1967, held at Udaipur.

GRANT OF STAGE CARRIAGE PERMIT ON UDAIPUR

TO KOTA. VIA MAVLI PASSANGER KAPASIN-CHITTOR

GARH-BEGUN-MANDALGARH-BIJOLIA

This route was offered to the displaced operators in consequence nationalised scheme on Udaipur-Dungarpur-Ratanpur route. We have heard the displaced operators and also the fresh applicants and the objectors who were present before us. Among the fresh applicants, the following were present;

1. M/s. Khameshra Transport, Kankroli,
2. Shri Badrilal Tiwari,
3. Shri Kaloolal Mali,
4. Smt. Dhapu Bai,
5. Shri Tikam Chand Vaishnav,
6. Shri Shankerlal Khameshra,
7. Shri Ram Chandra,
8. Shri Laxmi Narayan,
9. M/s Brothers Transport Service.

Shri Shambhudayal, Manager, Chittorgarh Bundi and Bhensrodgarh Bus Association, Objector was also heard. The main objection is that the route is overlapped by existing operators but there is no reason why this direct route connecting Udaipur-Kota- should not be opened in the interest of travelling public. It is no denying the fact that Kota is an Industrial town and there is necessity to connect important city like Udaipur directly with Kota. This direct service would save time and would, also be convenient for the travelling public. The objection is therefore, overruled.

We propose to keep our orders reserved because I understand that the writ petitions filed by the displaced operators have been argued in the Hon'ble High Court and the decision thereon is awaited. We will pronounce our orders after the decision of the Hon'ble High Court is delivered.

Sd/-Secretary, R.T.A.

Udaipur.

The second resolution which is impugned is Annexure-8, at page 48 of the paper book. It reads as follows:

Copy of Resolution No. 2 and Item No. 1(b) of the R.T.A. Meeting held from 8th to 11th May, 1967 at Jaipur.

We have fixed scope of 25 permits on this route i.e. Udaipur-Kota. Along with the displaced operators mentioned above, 13 applicants have applied for fresh grant. The merits of those persons were heard in the last meeting and their objections were overruled.

One non-temporary stage carriage permit each for a period of three years to the following, operators is granted on the condition that the vehicles of prescribed model will be engaged within 45 days:

1. Shri Laxmi Narayan Tak,
2. M/s Brothers Transport Service, Nathdwara.
3. M/s Kailash Bus Service.

12. The first 'resolution shows that route had been offered to displaced operators and also the fresh applicants who were present were heard. The presence of the petitioner Tikam Chand is noted. It appears that the Regional Transport Authority had dismissed the objections and held that the route be opened to provide a direct service between Udaipur and Kota so that it would be convenient for the travelling public. However, about the several applications for grant of permits the Regional Transport Authority reserved its orders and deferred the pronouncement thereof till after the decision of the High Court in the writ petitions. This clearly shows that the decision had not been taken and it was to be so taken after the decision of the High Court in the writ petitions. Annexure 8 shows that 13 applicants had applied for grant of fresh permits. Those applicants and the objectors were heard and the objections were overruled. The Regional Transport Authority decided to grant

permits to three persons (one each) namely, Shri Laxmi Narayan Tak, M/s Brothers Transport Service, Nathdwara and M/s Kailash Bus Service. The resolution does not say as to what the Regional Transport Authority had done about the other applications, nor does it disclose as to what were the reasons for preferring these three persons to others. It also shows that the objections against the several applications were dismissed at the previous meeting. The proceedings of the alleged meeting at Jaipur have been placed on record by the respondent themselves as Annexure-R 4/4. The original record is also before the Court. The following paragraph in the proceedings is relevant:

Orders on certain items were kept reserved in the last meeting held at Udaipur on the 12th and 13th April, 1967. In order to take decision on those reserved items a meeting was convened at Jaipur on 8th to 11th May, 1967 in which the Superintending Engineer, B. and R. P.W.D., Shri D.P. Jain, Shri Narpat Singh, R.T.O. Member Secretary and the Chairman were present. The learned Member Shri D.S. Sahi D.I.G. could not attend as he was to go to Jodhpur on official duty.

The above paragraph shows that the orders were kept reserved at the Udaipur meeting on 12th and 13th April, 1967, and a meeting was convened at Jaipur for taking a decision. The words 'taking a decision' are important as show that no decision had been taken by the Regional Transport Authority prior to the meeting said to have been held at Jaipur. One of the members Shri D.S. Sahi had not attended the meeting at Jaipur and therefore, he was not a party to that decision. The minutes of the proceedings of the Udaipur meeting show that Shri Sahi was present at the Udaipur meeting. This raises an important question whether all the persons who had heard the matter at Udaipur should have met to take a decision or some of them, though they may be in majority, could have taken such a decision. Rule 78 of the Rajasthan Motor Vehicles Rules, 1951 framed under the Motor Vehicles Act enables the Regional Transport Authority to reserve a decision and then take it by circulation. This taking of a decision by circulation clearly implies that all the members who had given the hearing to the parties at a meeting of Regional Transport Authority are to express their opinion. There is no express provision enabling the Regional Transport Authority to reserve a decision and then to take it at another meeting of Regional Transport Authority but there is also no

provision to disentitle the Regional Transport Authority from taking a decision reserved at the previous meeting at a subsequent meeting of the Regional Transport Authority. But, all the same it will be necessary for all the members who had heard the matter at the earlier meeting to participate in the taking of that decision at a subsequent meeting. The Regional Transport Authority, has to act quasi judicially. As pointed out by me in *Shivchand Lal v. Regional Transport Authority, Jaipur* 1968 RLW 461 the term 'quasi' means 'as if'. In other words, these Transport bodies while dealing with applications for grant of permits have in certain respects to project an image like a duly constituted court. A tribunal has to act impartially and has to give a fair deal to the parties before it. Just as for the Courts it is necessary that they should not only do justice, but appear to do justice, it is equally necessary for the Transport Authorities dealing with matters before them quasi judicially that they have not only to do justice, but appear to do justice. In a court where a number of Judges sit on a particular Bench, it is all the Judges who have heard a certain matter have to participate in the taking of a decision and have to be parties to the judgment to be delivered. Even if one Judge out of the Judges hearing a case is not a party to a decision after it has been reserved after hearing then the decision, though it may be by a majority of Judges, cannot be a decision of the court for want of participation by even one Judge. In the same way the Deputy Inspector General of Police, Shri Sahi, was there in hearing the applications and, consequently either the Regional Transport Authority should have decided the matter by circulation, so that Shri Sahi's opinion would also be there or at the meeting all the members who had heard the applications should have been present and should have participated in the taking of the decision.

13. Apart from this there is one more remarkable thing in the case i.e. that the minutes of the alleged meeting held at Jaipur are signed only by the Chairman. Usually the minutes or the recorded decisions of the Regional Transport Authority are signed by all the members hearing a matter and who have joined in the taking of the decision. In *Ichha Shanker v. Regional Transport Authority, Udaipur and others* (S.B. Civil Writ Petition No 471 of 1967) decided on 19-9-1989, I have come across a letter dated 11-8-1967 of the Chairman to the Secretary saying that the draft minutes should first be signed by the other members of the Regional Transport Authority and then put up before him for his signatures. Thus, the

present case appears to be a departure from the practice of the Regional Transport Authority that all the members who sit to hear a case and decide it, sign the minutes or the recorded decision of the Regional Transport Authority. Apart from this the resolution does not disclose as to what was the fate of other applications. On 29-5-1967, the Secretary of the Regional Transport Authority purports to have issued a notice that all other applications were rejected. The entire record has been called, but it does not show whether there was any other recorded decision of the Regional Transport Authority besides Annexure-8 for rejecting the other applications. On what authority the Secretary had issued the notice dated 29-5-1967 is not clear. A quasi judicial authority should not leave the fate of the applications before it in a state of suspense or vagueness. It may be that some of the applicants who took the notice of the Secretary dated 29-5-1967 as a fact accomplished approached the Transport Appellate Tribunal and the petitioner Tikamchand has approached this court praying for a writ of mandamus that the Regional Transport Authority be commanded to consider his application along with other applications before Regional Transport Authority.

14. Learned counsel for the respondent contended before me on the basis of a recent judgment of a Division Bench, the script of which is not yet available that Tikamchand having not availed of the alternative remedy of an appeal before the Transport Appellate Tribunal against the refusal of his application was not entitled to maintain the writ petition. The judgment, according to Shri R.R. Vyas was delivered in open court and he has tried to give the gist of it to me. I am however not in a position to appreciate the observations, if any, in that case, but I am satisfied that in the present case the Regional Transport Authority's resolution Annexure-8 by itself cannot be construed to mean that the application of Tikamchand was necessarily rejected. In a case where there are several applications and out of them a few are disposed of remaining applications could by implication be taken to have been rejected, if the limit for permits under Section 47(3) of the Act is reached by the grant of permits. In a case where such a limit is not reached, as in the present case, it may not be possible to say that the remaining applications about which no mention is made in the impugned resolution were refused. I cannot, therefore, say in the present case that the petitioner was in a position to file an appeal and that he did not avail of that remedy. It is a case of

an extremely doubtful nature. Some persons may have been led to believe by the notice of the Secretary that the other applications were refused, but in the absence of any recorded minutes of decision of the Regional Transport Authority to that effect it cannot be unhesitatingly said that all the remaining applications were actually refused by the Regional Transport Authority. It may be that the Secretary understood the resolution of the Regional Transport Authority in a particular way, but that will not mean that the Regional Transport Authority actually decided the matter only in that way. I am, therefore, not inclined to discuss the petitioner's application on the ground of his not availing of the so-called statutory remedy of an appeal.

15. Apart from it the error that I have discussed above, is of a fundamental character and it cannot be said that the resolution Annexure 8 was a decision of the Regional Transport Authority namely, the members who heard the matter at Udaipur. Shri Sahi was not present at the meeting held at Jaipur and he was not a party to that decision, though he was present at the meeting held at Udaipur. Contrary to the practice of the Regional Transport Authority, as it appears from the pursual of its minutes in several cases, the minutes or the recorded decision of the Regional Transport Authority in the present case is signed only by the Chairman and no other members. As such the inference is irresistible that there was no proper decision of the Regional Transport Authority.

16. In view of this conclusion I need not encumber this judgment by discussing the other points argued before me.

17. About the writ petition of Gopaldas it was argued that he being an existing operator he should have filed objections against the applications for grant of permits before the Regional Transport Authority and since he has not done so, he should not be heard in the writ petition. Gopaldas has asserted that he had filed objections against the applications of the concerning respondents. If the matter were to be disposed of on the writ petition of Gopaldas in isolation it would have been necessary to insist for proper proof from the petitioner about his having filed the objections, but as the Regional Transport Authority's resolution under challenge suffers from a fundamental defect and the case has to be considered

afresh by the Regional Transport Authority, it will be for the Regional Transport Authority to satisfy itself whether Gopal Das had filed objections and if so, the Regional Transport Authority will take them into consideration.

18. I may lastly deal with the question about the fixation of scope. It was contended by the petitioner that the Regional Transport Authority had not fixed any scope for permits under Section 47(3) of the Act and, therefore, it was not competent to grant the permits to the concerning respondents. The respondents have brought on record a resolution of the Regional Transport Authority Annexure-R 4/2. All that the learned counsel for the petitioner could say regarding this resolution, when he was confronted with it, was that the limit was fixed when the Regional Transport Authority was to consider the applications for grant of alternative route permits to displaced operators, and, therefore, it could not be of any help while considering fresh applications for permits. When a limit is fixed under Section 47(3) of the Act it is with a view to fix the limit generally so that the permits within the, limit fixed could be granted. The manner of granting the permits namely, by the procedure of Section 57 of the Act or under the Development Rules is immaterial. The limit fixed would be available in either case.

19. In the result I allow Tikamchand's writ petition and quash the resolution of the Regional Transport Authority Annexure 8 and hereby direct that the State Transport Authority shall consider all pending applications as are ripe along with the objections, afresh according to law. The State Transport Authority has to be directed now in place of the Regional Transport Authority in view of the notification dated 6-2-69. I allow the application of Gopaldas and direct that the Regional Transport Authority shall go into the question whether Gopaldas had filed any objections according to law against the several applications and then, if it is satisfied that he had so filed the objections, it will consider the objections at the hearing. The other writ petitions fail and are hereby dismissed. In the circumstances of the case the parties are left to bear their own costs.