PETITIONER:
GULLAPALLI NAGESWARA RAO ETC.

Vs.

RESPONDENT:
THE STATE OF ANDHRA PRADESH & OTHERS

DATE OF JUDGMENT:
21/08/1959

BENCH:
SUBBARAO, K.
BENCH:
SUBBARAO, K.
SINHA, BHUVNESHWAR P.
GAJENDRAGADKAR, P.B.

CITATION:
1959 AIR 1376 1960 SCR (1) 580

ACT:
Road Transport-Scheme of nationalisation-Chief Minister, if can hear objections-Doctrine of bias-Motor Vehicles Act (IV of 1939 as amended by Act 100 of 1956, ch. IVA, s. 68D.

HEADNOTE:
The appellants were carrying on motor transport business in Krishna District in Andhra Pradesh. The General Manager of the State Transport Undertaking published a scheme for nationalisation of motor transport and objections to the said scheme were invited. The appellants, among others, filed their objections. The Secretary in charge of the Transport Department gave personal hearing to the objectors and heard the representation made on behalf of the State Transport Undertaking. The Chief Minister, who was in charge of transport, passed the order approving the scheme. The appellants moved this Court under Art. 32 of the Constitution for quashing the said scheme and this Court in Gullapalli Nageswara Rao v. Andhra Pradesh Road Transport Corporation, previously decided, held that the Secretary- in charge of the Transport Department was incompetent to hear the objections on the around that no party could be a judge in his own cause and quashed the order approving the scheme. Thereafter notices were issued by the Government to the objectors. The Chief Minister himself heard the representatives of the objectors and the Road Transport Corporation and passed the order approving the scheme as originally published. The appellants moved the High Court under Art. 226 of the Constitution for writs of certiorari quashing the order passed by the Government confirming the scheme and subsequent orders Made by the Regional Transport Authority canceling their stage carriage permits. The High Court rejected the petitions and the appellants appealed. It was contended, inter alia, on their behalf that the same infirmity which attached to the Secretary in charge of the Transport Department on the previous occasion, attached to the Chief Minister, who was in charge of transport, and rendered him incompetent to hear the objections.
Held, that the two well-settled principles of the doctrine of bias that applied equally to judicial as well as quasi-

judicial tribunals, were,-(i) that no man shall be a judge in his own cause and that (2) justice should not merely be done but must also appear to be done. Any kind of bias, therefore, in a judicial authority, whether financial or other, for or against any party, or any position that might impute bias, must disqualify him as a judge.
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But when a State Legislature or the Parliament, in transgression of the aforesaid principles, by statute empowers an authority to be a judge in its own cause or decide a dispute in which it has an official bias, such statute, unlike one passed by the English Parliament, has to stand scrutiny in the light of the fundamental rights enshrined in the Constitution.
The King v. Bath Compensation Authority, [1925] 1 K.B. 685 and The King v. Leicester justices, [1927] i K.B. 557, discussed.
In the instant case, however, the relevant provisions of the Act do not sanction any transgression of the aforesaid principles of natural justice or authorise the Government to constitute itself a judge in its own cause. Nor could it be said that the State Government, in the present case, acted in violation of the aforesaid principles.
Since the appellants never questioned the competence of the Chief Minister to decide the objections on the last occasion and obtained the judgment of this Court on that basis, it was not open to them at this stage to reopen the closed controversy or take a contrary position.
The position of the Chief Minister was quite distinct from that of the Secretary of the Department. While the Secretary of the Department was its head and so a part of it, the Minister in charge was only primarily responsible for the disposal of the business pertaining to that Department. It was not, therefore, correct to say that the Chief Minister was a part of the Department constituted as a Statutory Undertaking under the Act.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 198 to 200 of 1959.

Appeals from the judgment and order dated the 5th March 1959, of the Andhra Pradesh High Court, in Writ Petitions Nos. 1511 and 1512 of 1958 and 23 of 1959.

N. C. Chatterjee, G. Suryanarayana, K. Mangach and T. V. R. Tatachari, for the appellants.

D. Narasaraju, Advocate-General for the State of Andhra Pradesh, D. Venkatappiah Sastry and T. M. Sen, for the respondents.

1959. August 21. The Judgment of the Court was delivered by

SUBBA RAO J.-These appeals on certificates are directed against the judgment of the High Court of Judicature, Andhra Pradesh, at Hyderabad, dismissing the petitions filed by the appellants under Art, 226 74
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of the Constitution for issuing writs of certiorari to quash the orders of the Government of Andhra Pradesh confirming a scheme of nationalization of transport and the subsequent orders of the Regional Transport Authority cancelling the appellants' stage carriage permits.

These appeals are the off-shoot of the judgment of this Court in Gullapalli Nageswara Rao v. Andhra Pradesh State Road Transport Corporation (1) delivered on November 5,

1958. The facts were fully stated therein. It would be only necessary to recapitulate briefly the facts relevant to the present enquiry: The appellants were carrying on motor transport business for several years in Krishna District in the State of Andhra Pradesh. Shri Guru Pershad, styled as the General Manager of the State Transport Undertaking of the Andhra Pradesh Road Transport, published a scheme for nationalization of motor transport in the said State from the date to be notified by the State Government. Objections to the said proposed scheme were invited by the State Government, and the appellants, among others, filed their objections. On December 26, 1957, the Secretary in charge of the Transport Department gave a personal hearing to the objectors and heard the representations made on behalf of the State Transport Undertaking. The entire material gathered by him was placed before the Chief Minister of the State in charge of transport who made the order approving the scheme. The approved scheme was published in the Andhra Pradesh Gazette dated January 9, 1958, and it was directed to come into force with effect from January 10, 1958. Thereafter the Andhra Pradesh Road Transport Corporation, which was formed under the provisions of the Road Transport Corporation Act, 1950, took over the Undertaking and proceeded to implement the scheme under a phased programme. The appellants moved this Court under Art. 32 of the Constitution for quashing the said scheme on various grounds. This Court rejected most of the objections raised by the appellants except in regard to two pertaining to the hearing given by the Secretary in charge

(1) [1959] S.C.R. (SUPPl) 319.

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of the Transport Department which resulted in the quashing of the order of the Government approving the scheme and directing it to forbear from taking over any of the routes on which the appellants were engaged in transport business. After the said order, notices were issued by the Government to all the objectors informing them that a personal hearing would be given by the Chief Minister on December 9, 1958, and they were further informed that they were at liberty to file further objections before November 30, 1958. The Chief Minister heard the representatives of the objectors and the Corporation and passed orders dated December 19, 1958, rejecting the objections filed and approving the scheme as originally published. The order approving the scheme was duly published by the Government in the official Gazette oil]December 22, 1958. On December 23, 1958, the Corporation applied to the Road Transport Authority for the issue of permits for plying stage carriages and for eliminating the permits granted to the private bus operators. On --December 24, 1958, the said Authority passed orders rendering the permits of the appellants ineffective from December 24, 1958, and also issuing permits to the Corporation in -respect of the routes previously operated by the appel-lants. The said orders were communicated to the appellants on December 24, 1958, and they were also directed to stop plying their buses from December 25, 1958, on their respective routes. The appellants, who were aggrieved, by the orders of the Government as well by the order of the Regional Transport Authority filed petitions in the High Court under Art. 226 of the Constitution for quashing the same.

The petitions were heard by a Division Bench of the said High Court consisting of Chandra Reddy, C.J., and Srinivasachari, J., who negatived the contentions raised by the appellants and dismissed the petitions. Hence these

appeals.
The arguments of Mr. Chatterjee, learned Counsel for the appellants maybe summarized thus: (1) This Court held in Gullapalli Nageswara Rao v. Andhra Pradesh State Road Transport Corporation that the
(1) [1959] S.C.R. (SUPPL.) 319.
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Secretary in charge of the Transport Department was disqualified from deciding the dispute between the Department and the private bus operators on the basis of the principle that a party cannot be a judge in his own cause, and that, as the Chief Minister was in charge of the portfolio of transport, the same infirmity attached to him also, and, therefore, for the same reason he should also be disqualified from hearing the objections to the scheme published by the Undertaking; and (2) the Chief Minister by his acts, such as initiating the scheme, and speeches showed a clear bias in favour of the Undertaking and against the private bus operators and therefore on the basis of the principles of natural justice accepted by this Court, he was precluded from deciding the dispute between the said parties.
The learned Advocate-General sought to make out a distinction between " official bias " of an authority which is inherent in a statutory duty imposed on it and " personal bias " of the said authority in favour of, or against, one of the parties and contended that the mere fact that the Chief Minister of the Government had supported the policy of nationalization, or even the fact that the Government initiated the said scheme, did Dot disqualify him from deciding the dispute unless it was established that he was guilty of personal bias, and that there was no legal proof establishing the said fact.
At this stage, it would be convenient to notice briefly the decisions cited at the Bar disclosing the relevant principles governing the doctrine of bias ". The principles governing the doctrine of bias " vis-a-vis judicial tribunals are well-settled and they are : (i) no man shall be a judge in his own cause; (ii) justice should not only be done but manifestly and undoubtedly seem to be done. The two maxims yield the result that if a member of a judicial body is " subject to a bias (whether financial or other) in favour of, or against, any party to a dispute, or is in such a position that a bias must be assumed to exist, he ought not to take part in the decision or sit on the tribunal " ; and that " any direct pecuniary interest, however small, in the
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subject-matter of inquiry will disqualify a judge, and any interest, though not pecuniary, will have the same effect, if it be sufficiently substantial to create a reasonable suspicion of bias ". The said principles are equally applicable to authorities, though they are not courts of justice or judicial tribunals, who have to act judicially in deciding the rights of others, i.e., authorities who are empowered to discharge quasi-judicial functions. The said principles are accepted by the learned Counsel on both sides; but the question raised in this case is whether, when a statute confers a power on an authority and imposes a duty on it to be a judge of its own cause or to decide a dispute in which it has an official bias, the doctrine of bias is qualified to the extent of the statutory authorization. In The King v. Bath Compensation Authority (1) the licensing justices of a county borough referred the application for the renewal of the licence of a hotel to the compensation

authority of the borough and also resolved that a solicitor should be instructed to appear before the compensation authority and oppose the renewal of the licence on their behalf. The solicitor so instructed appeared before the authority and supported the opposition, and in the result the compensation authority refused the renewal subject to payment of compensation. It may be mentioned that a majority of the justices who sat on the compensation tribunal and voted against the renewal of the licence had as members of the licensing committee been parties to the resolution referring the question of renewal to the compensation authority. The Court of Appeal by a majority, Atkin, L. J., dissenting, held that in view of the provisions of the Licensing Act, 1910, the facts in that case did not disclose such bias or likelihood of bias as would disqualify them from sitting on the tribunal. This decision was reversed by the House of Lords on appeal (reported in 1926 A.C. 586). The House of Lords held that the decision of the tribunal, whereon three justices who referred the matter to the said authority sat, must be set aside on the ground that no one can both be a party and a judge in the same cause,

(1) [1925] 1 K.B. 685.

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Viscount Cave, L.C., meets the argument based upon the statutory duty thus at p. 592:

" No doubt the statute contemplates the possibility of the licensing justices appearing before the compensation authority and taking part in the argument; for it is provided by s. 19, sub-s. 2, that the compensation authority shall give any person appearing to them to be interested in the question of the renewal of a licence, " including the licensing justices," an opportunity of being heard. But the statute nowhere says that justices who elect to appear as opponents of the renewal and take active steps (such as instructing a solicitor) to take their opposition affective, may nevertheless act as judges in the dispute,; and in the absence of a clear provision to that effect I think that the ordinary rule, that no one can be both party and judge in the same cause, holds good."

This decision, therefore, is an authority for the proposition that, unless the legislature clearly and expressly ordained to the contrary, the principles of natural justice cannot be violated. In The King v. Leicester Justices (1), a case also arising under the Licensing (Consolidation) Act, 1910, the king's Bench Division held that the mere fact that the licensing justice has originated an objection to the renewal of a licence does not disqualify him by reason of interest from sitting and adjudicating as a member of that authority upon the matter of that licence. Salter, J., brought out the distinction between the Bath Justices' Case (2) and the case before him in the following terms, at p. 565:

" The distinction is that, in that case, Parliament had not sanctioned what was done; in this case it has."

Dealing with the argument that there was some, risk of bias if the statutory duty was discharged, the learned Judge rejected it with the observation that " some risk of bias is inseparable from the machinery which Parliament has set up ". At first sight this judgment appears to be inconsistent with the decision

(1) [1927] 1 K.B. 557.

(2) [1925] 1 K.B. 685.

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of the House of Lords in Bath Justices' Case(1), but a

scrutiny of the latter case shows that in that case the licensing justices had themselves actively opposed the renewal of the licence before the compensation authority and instructed a solicitor to do so on their behalf This is not a duty cast on them by the statute whereas the licensing justices in dealing with an application for renewal of a licence and, when the question of renewal was referred for decision to the compensation authority, in sitting as members of that authority are merely carrying out the duties in accordance with the procedure prescribed by the legislature. These decisions show that in England a statutory invasion of the common law objection on the ground of bias is tolerated by decisions, but the invasion is confined strictly to the limits of the statutory exception. It is not out of place here to notice that in England the Parliament is supreme and therefore a statutory law, however repugnant to the principles of natural justice, is valid; whereas in India the law made by Parliament or a State Legislature should stand the test of fundamental rights declared in Part III of the Constitution.

In the instant case the relevant provisions of the Act do not sanction any dereliction of the principles of natural justice. Under the Act a statutory authority, called the Transport Undertaking, is created and specified statutory functions are conferred on it. The said Undertaking prepares a scheme providing for road transport service in relation to an area to be run or operated by the said Undertaking. Any person affected by the Scheme is required to file objections before the State Government and the State Government, after receiving the objections and representations, gives a personal hearing to the objectors as well as to the Undertaking and approves or modifies the scheme as the case may be. The provisions of the Act, therefore, do not authorise the Government to initiate the scheme and thereafter constitute itself a judge in its own cause. The entire scheme of the Act visualises, in case of conflict between the Undertaking and the operators of private buses, that the State Government

(1) [1925] 1 K.B. 685.

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should sit in judgment and resolve the conflict. The Act, therefore, does not authorise the State Government to act in derogation of the principles of natural justice.

The next question is whether the State Government, in the present case, acted in violation of the said principles. The argument that as this Court held in the previous stage of this litigation that the hearing given by the secretary in charge of the Transport Department offended the principles of natural justice, we should hold, as a logical corollary to the same, that the same infirmity would attach to the Chief Minister. This argument has to be rejected on two grounds: firstly, for the reason that on the last occasion the appellants did not question the right of the Chief Minister to decide on the objections to the scheme,- and indeed they assumed his undoubted right to do so-but canvassed the validity of his order on the basis that the secretary, who was part of the Transport Department, gave the hearing and not the Chief Minister and, therefore, a party to the dispute was made a judge of his own cause. If, as it is now contended, on the same reasoning the Chief Minister also would be disqualified from deciding the dispute, that point should have been raised at that stage: instead, a distinction was made between the Secretary of a Department and the Chief Minister, and the validity of the order of the Chief Minister was questioned on the basis of

this distinction. This Court accepted that argument. Having obtained the judgment of this Court on that basis, it could not be open to the appellants, at this stage, to reopen the closed controversy and take a contrary position. That apart, there are no merits in this contention. There is a clear distinction between the position of a Secretary of the Department and the Chief Minister of the State. Under the Constitution, the Governor is directed to act on the advice of the Ministers headed by the Chief Minister. In exercise of the powers conferred by cls. 2 and 3 of Art. 166 of the Constitution the Governor of Madras made rules styled as " The Madras Government Business Rules and Secretariat Instructions", and r. 9 thereof
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prescribes that without prejudice to the provisions of r. 7, the Minister in charge of a department shall be primarily responsible for the disposal of the business pertaining to that department. The Governor of Andhra,in exercise of the powers under the Constitution, directed that until other provisions are made in this regard the business of the Government of Andhra shall be transacted in accordance with the said Rules. It is, therefore, manifest that under the Constitution and the Rules framed thereunder a Minister in charge of a department is primarily responsible for the disposal of the business pertaining to that department, but the ultimate responsibility for the advice is on the entire ministry. But the position of the Secretary of a department is different. Under the said Rules, the Secretary of a department is its head i.e., he is part of the department. There is an essential distinction between the functions of a Secretary and a Minister; the former is a part of the department and the latter is only primarily responsible for the disposal of the business pertaining to that department. On this distinction the previous judgment of this Court was based, for in that case, after pointing out the position of the Secretary in that Department, it was held that "though the formal orders were made by the Chief Minister, in effect and substance, the enquiry was conducted and personal hearing was given by one of the parties to the dispute itself ". We cannot, therefore, accept the argument of the learned Counsel that the Chief Minister is part of the department constituted as a statutory Undertaking under the Act.

The next question is whether the Chief Minister by his acts and speeches disqualified himself to act for the State Government in deciding the dispute. In the affidavit filed by Nageswara Rao, one of the appellants herein, in respect of the writ petitions filed in the High Court, he states in ground (8) of paragraph (14) thus:

" He (the Chief Minister) is the Minister in charge of the Transport Department at whose instance the Scheme was first published under Section 68C of the Act. He is not only the initiator of the Scheme but also the person who is interested in its approval and
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implementation. He has thus a direct and specific connection with the dispute being a party thereto and he would be acting as a Judge in his own cause when he gives a personal hearing and considers the objections."

Mr. Chatterjee contends that this allegation embodied in ground (8) has not been contradicted by the respondents. It is not correct to say that these allegations went unchallenged, for in paragraph 6 of the counter affidavit filed on behalf of the State, we find the following

statements:
" The contentions of the petitioner in para. 14 of his affidavit are without substance. The scheme as approved by the Government is neither illegal nor without jurisdiction."
In sub-paragraph (3) of paragraph 6, it is alleged:
" The allegations that the hearing and determination of the questions in issue are not in accordance with law or principles of judicial procedure, but only a farce gone through to satisfy the direction of the Supreme Court, is not correct."
Sub-paragraph (7) of paragraph 6 reads:
" The Minister in charge i.e., the Chief Minister can hear and decide. The State Government itself cannot be regarded as interested in the cause and therefore disqualified to decide."
Sub-paragraph (8) of the said paragraph says:
" The contention that the Chief Minister is not competent, to give the hearing and consider the objections inasmuch as he is biassed and has also prejudged the issue, is not well-founded. On facts on 9-12-1958, there was no Road Transport Department at all but a Road Transport Corporation, which is a completely autonomous body, with which the Chief Minister has no concern. Hence on the date of the enquiry, the Corporation being a completely autonomous body is an entirely independent body altogether and hence there can be no question of bias to the Chief Minister hearing the objectors. The bearing given by the Chief Minister is just like a hearing of the court of law after remand
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by a Superior Court..... The allegation that the Chief Minister had closed his mind and was biased is absolutely baseless. He kept an open mind and considered all the objections fully."
The counter-affidavit further gives in detail how the scheme was initiated by Guru Pershad and how the various steps were taken in compliance with the provisions of the Act. It is therefore clear that the Government did not accept the allegations made by the appellants in their affidavits. Whatever may be the policy of the Government in the matter of nationalisation of the bus transport, it cannot be said that the Chief Minister initiated the scheme in question. The learned Counsel then relied upon certain extracts from the reports published in the newspapers purporting to be the speeches of the Chief Minister. Exhibit IV is said to be a summary of the speech of the Chief Minister. made on October 14, 1957, and the relevant portion thereof reads :
" I do not have any prejudice against the Krishna District. The bus transport in Telangana was nationalised 25 years ago. The Bus Transport nationalisation was extended to Krishna District since it is contiguous to Telangana in regard to transport services. It will be extended to the other districts gradually. It requires 12 crores of rupees to introduce nationalisation in all the districts at the same time. The Government is aware that Nationalisation of Bus Transport is not profitable. But we should fall in line with other States and move with the times. There are 360 buses in Krishna District. I cannot give an assurance that all these would be taken over. It is regrettable that these should be subjected to severe criticism when they are being done in public interest."
This speech only reflects the policy of the Government. Exhibit V is said to be an extract from the report of the Indian Express dated October 18, 1957. The material part of it runs thus:
" Nationalisation of road transport services in the Andhra

area was a settled fact and there was absolutely no question of going back on it .....

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This speech also only states the policy of the Government and has no reference to Krishna District or to the transport services in that district. Exhibit VI is an extract from the report in the Hindu dated October 25, 1957, wherein it is alleged that the Chief Minister' made the following statement:

" Mr. N. Sanjiva Reddy, Chief Minister, said here today that the nationalised road transport in Krishna would be administered by a Corporation.

The Chief Minister, who was addressing a press conference said: " There is no question of postponement of the decision to nationalise bus transport in that district..... The Chief Minister said firmly that there was no public support to the contention of the private bus operators that there should be no nationalisation."

This speech has a direct reference to the nationalisation of bus transport in Krishna District and indicates a firm determination on the part of the Chief Minister not to postpone it any further. Exhibit IX is an extract from the report in the Indian Express dated December 13, 1957 and it reads:

" The Andhra Pradesh Chief Minister Sanjeeva Reddy told pressmen here to-day that the State Government would go ahead with the implementation of its decision to extend nationalisation of bus transport to Krishna district from April I next."

This also indicates the Chief Minister's determination to implement the scheme of nationalisation of bus transport in Krishna District from a particular date. Exhibit X is a report in the Mail under date April 1, 1958, purporting to be a speech made by the Chief Minister in inaugurating the first phase of the extension of the nationalised road transport services to Guntur and Krishna Districts by the State Road Transport Corporation. Relevant extracts of the speech read thus:

" He (the Chief Minister) considered the implementation of the scheme simple first, but he regretted to find it difficult since bus operators filed writ petitions in the High Court, raised a I huge noise' and fought

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till the very end against the scheme and finally even approached the Congress President Mr. U. N. Dhebar to save them.....

Mr. Sanjeeva Reddi affirmed that the Government was determined to implement the scheme of nationalisation of bus transport services against all opposition and persons like him trained by the late T. Prakasam were never afraid of opposition."

If it had been established that the Chief Minister made the speeches extracted in Exhibits VI, lX and X, there would have been considerable force in the argument of the learned Counsel for the appellants; but no attempt was made to prove that the Chief Minister did in fact make those speeches. It is true that the extracts from the newspapers were filed before the Chief Minister and they were received subject to proof ; but no person who heard the Chief Minister making those speeches filed an affidavit before him. The Chief Minister did not admit that he made the statements attributed to him. The Chief Minister in his order approving the scheme says:

" As regards the paper cuttings, I may mention that in the

course of a long and varied, political career I have made hundreds of statements on many an occasion and many of them may be purely personal opinions. Moreover, it is not always that the press people consult the persons on the accuracy of the statements made before they are published. The press cuttings filed before me are not communiques issued by the Government, with the approval of the Government. They are published records of several statements said to have been made by me on various occasions. It is common knowledge press cuttings here and there, torn out of context, will give a completely twisted picture and version of a man's real intentions. It is not possible for me to state any thing definite about the veracity of these statements said to have been made by me at different points of time. It is quite possible that I might have made many such, on many an occasion, and it is also quite possible, that some points spoken here and there may have been published with Head lines in the papers.

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It is not possible nor desirable to treat paper cuttings of statements said to have been made on several occasions as legal evidence in a judicial enquiry."

Notwithstanding the fact that the Chief Minister did not accept the correctness of the statements attributed to him in the newspapers, no attempt was made by the appellants to file any affidavit in the High Court sworn to by persons who had attended the meetings addressed by the Chief Minister and heard him making the said statements. In the circumstances, it must be held that it has not been established by the appellants that the Chief Minister made the speeches indicating his closed mind on the subject of nationalisation of bus transport in Krishna District. If these newspaper cuttings are excluded from evidence, the factual basis for the appellants' argument disappears. We, therefore, hold that the Chief Minister was not disqualified to hear the objections against the scheme of nationalisation.

A subsidiary argument is raised on the basis of r. 11 of the Andhra Pradesh Motor Vehicles Rules. It is contended that the Road Transport Authority made an order rendering that the permits of the appellants ineffective without giving them due notice as required by that rule and therefore the said order was invalid. Rule 11 of the said Rules reads:

" In giving effect to the approved scheme, the Regional Transport Authority or Authorities concerned shall, before eliminating the existing services or cancelling any existing permit or modifying the conditions of the existing permit so as to -

(i) render the permit ineffective beyond a specified date;

(ii) reduce the number of vehicles authorised to be used under a permit; or

(iii) curtail the area or route covered by the permit in so far as such permit relates to the notified route:

give due notice to the persons likely to be affected in the manner prescribed in these rules."

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This rule will have to be read along with s. 68-F, sub-s. 2, which reads:

" For the purpose of giving effect to the approved scheme in respect of a notified area or notified route, the Regional Transport Authority may, by order,-

(a) refuse to entertain any application for the renewal of any other permit:

(b) cancel any existing permit;

(c) modify the terms of any existing permit so as to-

(i) render the permit ineffective beyond a specified date:
(ii) reduce the number of vehicles authorised to be used under the permit;
(iii) curtail the area or route covered by the permit in so far as such permit relates to the notified area or notified route."

A combined reading of s. 68F (2) and r. 11 makes it clear that the order contemplated under the said subsection can be made by the Regional 'Transport Authority only after giving due notice to the persons likely to be affected by the said order. On December 24, 1958, the Regional Transport Authority made the following order:

" The permits of the following buses are rendered ineffective beyond 24-12-1958, under section 68F (2)(c)(1) of Motor Vehicles Act, 1939 (as amended by Act 100 of 1956) for the purpose of giving effect to the approved scheme of Nationalisation in respect of the following notified routes."

The routes on which the appellants were operating their buses were also included in the routes mentioned in the order. On December 24, 1958, the Regional Transport Authority issued an order to the operators directing them to stop plying their buses on their respective routes from December 25, 1958, and that order was served on the appellants on the same day i.e., December 24, 1958. Though the learned Advocate-General suggested that the provisions of r. 11 have been satisfied in the present case, we find it impossible to accede to his contention. There are two defects in the procedure. followed by the Regional
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Transport Authority : (i) while the rule enjoins on the Authority to issue notice to the persons affected before making the relevant order, the Authority made the order and communicated the' same to the persons affected; and (ii) while the rule requires due notice i.e., reasonable notice., to be given to the persons affected to enable them to make representations against the order proposed to be passed, the Regional Transport Authority gave them only a day for complying with that order, which in the circumstances could not be considered to be due notice within the meaning of the rule. We have, therefore, no hesitation to hold that the Regional Transport Authority did not strictly comply with the provisions of the rule. But, in view of the supervening circumstances, the High Court, while noticing this defect in the procedure followed by the Regional Transport Authority, refused to exercise its jurisdiction under Art. 226 of the Constitution. Pursuant to the order of the Regional Transport. Authority the appellants withdrew their vehicles from the concerned routes and the vehicles of the Road Transport Corporation have been plying on those routes. The judgment of this Court conclusively decided all the questions raised in favour of the respondents, and if the order of the Regional Transport Authority was set aside and the appellants were given another opportunity to make their representations to that Authority, it would be, as the High Court says, only an empty formality. As their vehicles have already been withdrawn from the routes and replaced by the vehicles of the Corporation, the effect of any such order would not only be of any help to the appellant but would introduce unnecessary complication and avoidable confusion. In the circumstances, it appears to us that as the appellants have failed all along the line, to interfere on a technical point of no practical utility is "to strain at a gnat after swallowing a camel ". We cannot, therefore, say that the High Court did not rightly exercise its discretion

in this matter. The appeals fail and, in the circumstances, are dismissed without costs.

Appeals dismissed.

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