

(1985) 01 RAJ CK 0064

Rajasthan High Court

Case No: Civil Writ Petitions No"s. 763 of 1983, 1581, 1740, 1741, 1742, 1744, 1745, 1747, 1763, 1769, 1770, 1771 of 1984, 2292 of 1983, 1746 and 1768 of 1984

Virendra Kumar and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision: Jan. 1, 1985

Acts Referred:

- Constitution of India, 1950 - Article 14, 19
- Essential Commodities Act, 1955 - Section 3
- Road Transport Corporations Act, 1950 - Section 18, 19

Citation: (1985) 1 WLN 526

Hon'ble Judges: N.M. Kasliwal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

N.M. Kasliwal, J.

As identical questions of law have been raised in all the above cases as such the same are disposed of by one common order.

2. The petitioners, who are holders of contract carriage permits on the various routes in Rajasthan have filed these writ petitions challenging the Notification No. F. 1(6)H/Unit/X-75 S.C. 420 dated July 15, 1975 issued by the Government u/s 129-A of the Motor Vehicles Act, 1939 (here in after referred to as "the Act") In order to appreciate the contentions raised in these writ petitions, the impugned Notification is reproduced as under:

HOME (GR. X) DEPARTMENT
NOTIFICATION

No. F. 1(6)H/Unit-X-75 S.C. 420

July 15, 1975

In exercise of power conferred by Section 129-A of the Motor Vehicles Act, 1939 (Central Act IV of 1939) the Government hereby further authorises the following persons to exercise all the powers & to take or cause to be taken all the proper steps within their respective jurisdiction under the said section in respect of all the stage carriages and contract carriages plying on or in any notified area u/s 68-D(3) of the said Act or in any portion thereof namely:

S.No.	Persons authorised	Jurisdiction
1.	Deputy General Manager	1. All Rajasthan
2.	Assistant Depot Manager	2. Within the jurisdiction of their respective depot
3.	Traffic Inspectors	3. Within the jurisdiction of their respective routes

3. The case of the petitioners is that in pursuance to contract carriage permits in their favour they are plying their vehicles on various routes in State of Rajasthan under the permits granted to them. The Rajasthan State Road Transport Corporation (here in after referred to as "the Corporation") is a competitor in the above trade with the petitioners and has also interest in the same business in which the petitioners are interested. The Corporation being rival in trade and business aforesaid does not take the existence of the petitioners happily. On this account the officers of the Corporation have on many occasions harassed the petitioners by seizing and detaining their vehicles in total violation of the provisions of Section 129-A of the Act. Once the vehicles of the petitioners are seized and detained, it takes long number of days to get the vehicles released and for this purpose the petitioners and their likes in the business have to incur lot of expenses. They have to approach learned Judicial Magistrate (Transport whose) Headquarter is located at Jodhpur. Faced with this situation, more often the petitioners and their likes are compelled to admit their guilt as they can ill-afford to attend the number of hearings in the event of their denying the charges. It has been further alleged that on the other hand, if the Corporation violates the provisions of the Act and the Rules made thereunder, there is no-body to take the Corporation to task. It has been submitted that it was a well known fact for which judicial notice should be taken that the buses run by the Corporation go over-crowded and even passengers are carried on the top of such buses. The petitioners have challenged the impugned notification on the grounds that the words "or other person authorised in this behalf by the State Government" should be read ejusdem generis with the words "any police officer authorised in this behalf." Section 129-A reads as under:

Section 129-A. Power to detain vehicles used without certificate of registration or permit-Any Police Officer authorised in this behalf or other person authorised in this behalf or other authorised in this behalf by the State Government may, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of (Section 22) or without the permit required by Sub-section (1) of

Section 42 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, seize and detain the vehicle, and for this purpose take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle:

Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used without the permit required by Sub-section (1) of Section 42, he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgement in respect thereof:

Provided further where a motor vehicle has been seized and detained under this section for contravention of the provisions of Section 22, such vehicle shall not be released to the owner unless and until he produces a valid certificate of registration under this Act in respect of that vehicle.

4. It has been submitted that the words "any police officer" are followed by words of general import or other person and according to the well settled rules of interpretation such words of wide import should be given meaning of narrow import and should be read as other persons falling in the category of police officers alone or their like. It is thus submitted that the officers of the Corporation itself like Deputy General Manager, Assistant Depot Manager and Traffic Inspectors, who have been authorised by the State Government by the impugned Notification cannot be covered under the words "other person" used in Section 129A of the Act.

5. It has also been submitted in the alternative that even if the words "other person" are given the meaning of wide import so as to include any and every person then the same should be declared invalid on account of being discriminatory and violative of Article 14 of the Constitution of India. In support of this contention it has been submitted that Section 129-A does not contain any guidelines for choice of the persons and it vests arbitrary powers in the Government to authorise any person under the above provision. It is also submitted that when such authorisation is made in favour of the officers of the Corporation itself, who is a rival in trade and business with the petitioners then it would result in the Corporation escaping the regard of law while putting the petitioners to undue harassment. It is submitted that the petitioners as well as the Corporation both are doing the business of plying vehicles on the routes and as such fall in one category or class and powers cannot be exercised in an arbitrary manner so as to give advantage to one class or category of persons in the same business and to put to disadvantage to the other.

6. It has also been submitted that by the impugned Notification a situation has been accorded whereby a rival in the trade has been put in a highly advantageous position and this is a serious impediment on the fundamental rights of the petitioners to carry on their business of plying vehicles. It has also been submitted that a police officer authorised u/s 129A is always a person who gets adequate training in Code of Criminal Procedure, Indian Penal Code and other laws and is

controlled by a hierarchy of officers in the department. They are public officers and are under strict discipline, control and can be punished for dereliction of their duties. As against this the employees of the Corporation authorised under the impugned Notification are the employees of the Corporation who have no training in the matter. There is no provision in the service regulations of the employees of the Corporation providing qualifications for their employees. In any case, there is nothing assured that the persons named in the Notification have acquired ability and skill like a police officer in order to exercise important coercive powers as laid down u/s 129 A of the Act. In view of these circumstances, it has been prayed that the impugned Notification may be declared to be illegal & be quashed. It has also been prayed that the words "or other person authorised in this behalf" as used u/s 129A of the Act may also be declared as illegal.

7. The Corporation in the reply has submitted that the State Government has exercised its powers conferred u/s 129A of the Act. The petitioners have not challenged the very source of the power i.e. provision of Section 129A of the Act as a whole. In case the persons authorised under the impugned Notification act in an illegal manner then such act of the officer can be challenged but not the Notification under which the person has been empowered to act. So far as the validity of Section 129A of the Act is concerned, the same has been held to be valid by their Lordships of the Supreme Court in [The Transport Commissioner, Andhra Pradesh, Hyderabad and Another Vs. S. Sardar ali, Bus Owner, Hyderabad and Others](#), . It has been further submitted that the petitioners are not entitled to apply their vehicles on those routes or even part of these routes which have been nationalised under the scheme of total exclusion. The Corporation is a statutory body and has been established under the provisions of Road Transport Act for providing efficient, economical and adequate transport service in the State of Rajasthan. The object of the Corporation is not merely profit making as that of the petitioners. The Corporation is certainly interested and zealous to see that no clandestine operations are made on the notified nationalised routes of total exclusion. It has been further submitted that it was only in such cases where any person was found playing his vehicles on the notified route of total exclusion in contravention of the provision of the approved scheme, that action is taken and nothing was wrong in admitting the guilt when such persons were caught red handed. The check posts were established by the Corporation only to prevent clandestine operations on the notified routes of total exclusion. It has also been submitted that the Corporation is a government undertaking of which 70% of the budget is financed by the State of Rajasthan and 30% by the Central Government. It has also got hierarchy of officers and all actions done by various officers are scrutinised by the officers. The petitioners have made only wild and general allegations but have not cited a single instance where it has been found that any action taken u/s 129A of the Act by the officers of the Corporation was not justified.

8. The Corporation has further submitted in the reply that it has come to the notice of the State Government that lot of clandestine operations were being made by the private operators in providing their vehicles on the notified routes of total exclusion and the police remained oblivious to such illegal operations. The State Government thus in exercise of its powers conferred u/s 129A of the Act further authorised the officers of the Corporation by the impugned Notification to curb the above menace. It has been further submitted that the Corporation is also subject to the provisions contained in the Motor Vehicles Act and the Rules made thereunder and in case the Corporation does any breach of conditions of the permit then it is also liable to be proceeded against and punished under the provisions of the Act. The charges levelled against the Corporation of over-loading the buses is stated to be wrong and incorrect. It has been also submitted that the Corporation, which is a State Transport Undertaking falls in a distinct and separate class of operator and as such there is no violation of Article 14 of the Constitution of India. The authorisation made in favour of the officers of the Corporation has a reasonable nexus to stop and prevent clandestine operations which are being made and committed by the private operators in providing their transport service on notified routes of total exclusion. There is no restriction or infringement on the freedom of trade or business of the petitioners as the action would be taken only when the petitioners violate the provisions of Section 22 or Sub-section (1) of Section 42 of the Act or in contravention of any condition of permit relating to the route on which or the area in which or the purpose for which the vehicle may be used. It has also been submitted that there are sufficient guide-lines provided in Section 129A of the Act when the State Government shall authorise any other person as the same would be done when the State Government shall have reason to believe that motor vehicle has been or is being used in contravention of the provisions of Section 22 or without the permit required by Sub-section (1) of Section 42 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used. A bare perusal of impugned notification would show that power has been conferred on such officers of the Corporation, who were in fact concerned with the operation of the Corporation vehicles both on nationalised routes under Chap. IV-A and on other routes covered by Chap. IV and who were well acquainted with the facts in respect of routes lying in the State of Rajasthan and were notified routes of total exclusion and over which clandestine operations were being made by the private operators. As a matter of fact the State in order to put an end to the clandestine operations made by the private operators on routes of total exclusion, thought in its wisdom to invest the Corporation officers with the powers of Section 129A besides the police officers who have already been authorised in this behalf.

9. I have given thoughtful consideration to the arguments advanced by learned Counsel for both the parties and have thoroughly perused the record.

10. Section 129A was inserted by Section 20 of the Motor Vehicles (Amendment) Act 20 of 1942. The vires of Section 129A have not been challenged by the petitioners in these writ petitions. That apart, the validity of this section has been upheld by the Supreme Court in *Transport Commissioner, Andhra Pradesh's case* (supra). Under this Section any police officer or other person authorised in this behalf by the State Government has been empowered to seize and detain the vehicle and for this purpose take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of Section 22 or without the permit required by Sub-section (1) of Section 42 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which, the vehicle may be used. The power as such has been given only when such person has reason to believe that the motor vehicle has been or is being used in contravention of the provisions 22 or without the permit required by Sub-section (1) of Section 42 or in contravention of any conditions of such permit. The Police Officer or other person authorised in this behalf by the State Government cannot act in an arbitrary manner but can only take action when there is contravention of the provisions of conditions mentioned above. The power has been given to the State Government to authorise person other than the police officer also who would exercise powers conferred under this Section 129A. The State Government as such is the best judge to consider as to which other officer would be suitable and competent to exercise powers in a proper and reasonable manner. I find no force in the contention of learned Counsel for the petitioner that Section 129A does not contain guidelines for choice of the person and it vests arbitrary powers in the Government to authorise any person under the above provision. When such power is conferred on the State Government u/s 129A and the functions and duties of such person are also mentioned in the section then it can reasonably be inferred that the State Government shall exercise powers by keeping in mind as to what functions and duties have to be discharged by such person under the above section. If a power is given to the State Government authorising person other than the police officer, the Legislation clearly intended that situation or contingencies may arise where person other than the Police Officer should also be authorised for preventing the contravention of the provisions of Section 22 or Sub-section (1) of Section 42 or contravention of any conditions of the permit.

11. It may be pertinent to mention that the Government of Rajasthan has issued Notification from time to time authorising not only police officers but also officers of the Transport Department and Rajasthan State Roadways in exercise of their powers conferred u/s 129A of the Act. On January 9, 1951, Notification was issued authorising every police officer not below the rank of Sub-inspector and every transport officer not below the rank of an Inspector of Motor Vehicles in exercise of the powers conferred u/s 129A of the Act. A similar kind of Notification was again issued on February 15, 1956. Again on June 10, 1961 Notification was issued in

pursuance to the provisions of Section 129 and 129A of the Act authorising the following officers of Rajasthan State Roadways to inspect the documents and to detain and seize vehicles used without certificate of registration or permit under these sections on the notified routes, namely:

(i) Regional Managers;

(ii) Depot Managers;

(iii) Section Superintendents;

(iv) Inspectors; and

other officers not below the rank of Assistant Traffic Inspectors.

12. It has been contended by the learned Counsel for the petitioners that the above mentioned officers were employees of the Transport Department and in 1961 when the above Notification was issued the Corporation had not come into existence. It is submitted that the Corporation being a competitor with the petitioners, it is most unreasonable and unjust to authorise the officers of the Corporation, itself u/s 129-A of the Act. I see no force in this argument of learned Counsel for the petitioners. The Rajasthan State Road Transport Corporation is a creature of statute and as submitted by the Corporation in its reply 70 per cent of the budget is financed by the State of Rajasthan and 30 per cent by the Central Government. It has also in its employment hierarchy of officers, who are governed by service Regulations. So far as the nationalised routes are concerned special provisions have been made relating to State Transport Undertaking under Chapter IV-A of the Act u/s 68-C 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 Transport Service in general or any particular cases of such services in relation to any area or road 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 has been authorised to prepare a scheme for the area or route proposed to be covered. It has been further provided u/s 68-F that where in pursuance of an approved scheme, the State Transport Undertaking applies for a stage carriage permit or a public carrier permit or a contract carriage permit in respect of a notified area or notified route the State Transport Authority shall issue such permit to the State Transport undertaking not with standing anything to the contrary contained in Chapter IV. An approved scheme is the law. Once a scheme is published u/s 68-C and approved by the State Government u/s 68-D(2), the Regional Transport Authority has no discretion and is bound to grant a permit to the State Transport Undertaking in accordance with the scheme. In view of all these provisions it cannot be said that the Corporation, which is a State Transport Undertaking lies at par with the private operators.

13. A perusal of the impugned Notification dated July 15, 1975, shows that the persons named therein have been authorised to exercise all the powers and to take or cause to be taken all the proper steps within their respective jurisdiction u/s 129-A in respect of stage carriages and contract carriages playing on or in any notified area u/s 68-D(3) of the Act or in any portion thereof. Thus, the above power is a limited one and has been conferred in respect of notified area only u/s 68-D(3) or in any portion thereof. The Deputy General Manager has been given jurisdiction for whole of Rajasthan, while Assistant Depot Manager within the jurisdiction of their respective depot and the Traffic Inspectors within the jurisdiction of their respective routes. The object in issuing the above Notification is that no clandestine operations be made on the notified nationalised route of total exclusion. I see force in the contention of the learned Counsel for the Corporation that power has been conferred on such officers of the Corporation, who are in fact concerned with the operation of the Corporation vehicle both on nationalised routes under Chapter IV-A and on other routes covered by Chapter IV and who were well acquainted with the facts in respect of routes lying in the State of Rajasthan and were notified routes of total exclusion and over which clandestine operations were being made by the private operators. The Corporation being a State Transport Undertaking falls in a distinct and separate class of operator and the authorisation made in favour of the officers of the Corporation has a reasonable nexus to stop and prevent clandestine operations by the private operators in providing their transport service on notified routes of total exclusion. I see force in the contention of the learned Counsel for the Corporation that lot of clandestine operations were being made by the private operators in plying their vehicles on the notified routes of total exclusion and as the police remained oblivious to such illegal operations necessity arose to authorise officers of the Corporation itself to curb the above mal practice.

14. There is no question of giving any advantageous position to the Corporation in issuing the impugned Notification in as much as the power given to the persons named in the Notification is only for limited purpose. In case petitioners will ply their vehicles according to the "conditions of their permits and will not play their vehicle in violation to the conditions of their permits and will not ply their vehicles on the notified area, there is no question of seizing or detaining their vehicles. The officers can only act in case the petitioners ply their vehicles in violation of the conditions of their permits or over the notified area u/s 68-D(3) of the Act or any portion thereof. The above Notification does not give any licence to the Corporation also to ply their vehicles in violation of the conditions of permit issued in their favour. The Police Officers are already authorised under the existing notifications, to take action if there is any violation of the provisions or conditions mentioned u/s 129-A of the Act. There is no immunity to the vehicles of the Corporation to make violation of the Motor Vehicles Rules or the Act. The fact that the Corporation carries their vehicles over-loaded, even if taken to be correct, there is a separate remedy for the same but the impugned Notification cannot be struck down on this account.

15. The next point to be considered is whether the words "or other person" used in Section 129-A should be read as ejusdem generis to the words "police officer" or not. In *Amar chand Chakraborty v. The Collector of Excise, Government of Tripura, Agartala and Ors.* AIR 1972 SC 1963, it has been held that this doctrine applies when (i) the Statute contains an enumeration of specific words; (ii) the subject of the enumeration constitutes a class or category; (iii) that class or category is not exhausted by the enumeration; (iv) the general term follows the enumeration, and (v) there is no indication of a different legislative intent. In the above case their Lordships of the Supreme Court in para 9 considered the argument founded on the ejusdem generis rule. It was contended by Shri A.K. Sen learned Counsel for the appellant in the above case that the only way in which Section 43 of the Bengal Excise Act, 1909 can be saved from the challenge of arbitrariness is to construe the expression "any cause other than" in Section 43(1) ejusdem generis with the causes specified in Clauses (a) to (d) of Section 42(1). The Supreme Court repelled the above contention and observed that they did not agree with this submission. The ejusdem generis strived to reconcile the incompatibility between specific and general words. Thereafter, the above mentioned 5 principles were enunciated in order to apply the doctrine of ejusdem generis. It was then observed as under:

In the present case, it is not easy to construe the various clauses of Section 42 as constituting one category or clause. But that apart the very language of the two sections and the objects intended respectively to be achieved by them also negated any intention of the legislature to attract the Rule of ejusdem generis.

16. In [Jagdish Chander Gupta Vs. Kajaria Traders \(India\) Ltd.,](#) , it was held as under:

Interpretation ejusdem generis or noscitur a sociis need always be made when words showing particular classes are followed by general words. Before the general words can be so interpreted there must be a genus constituted or a category disclosed with reference to which the general words can and are intended to be restricted. (1944) I KB 362, Rel. on.

17. In [Raja Bhanupratap Singh Vs. Assistant Custodian Evacuee Property U.P.,](#) , it was observed as under:

The words used in Section 10(2)(n) empowering the Custodian to pay to "any other person" any sums of money out of the funds in his possession are not restricted to persons who are members of the family of the evacuee; other persons who are entitled to receive money from the evacuee are also included. The expression "any other person" in Clause (n) cannot be construed ejusdem generis with evacuee or any member of his family. The rule of ejusdem generis applies where a general word follows particular and specific words of the same nature as itself; where there is no genus or category indicated by the Legislature the rule has no application.

18. In [Hamdard Dawakhana \(Wakf\), Delhi and Another Vs. Union of India \(UOI\) and Others,](#)

Clause 2(d)(v) of the Fruit Products Order, 1955 promulgated by the Central Government u/s 3 of the Essential Commodities Act, 1955 takes in the definition of "fruit product," squashes, crushes, cordials, barley water, barrelled juice and ready-to-serve beverages containing fruit juices and fruit pulp. This clause cannot be read as ejusdem generis with previous categories of beverages, because an examination of the said beverages will disclose the fact that there is no genus by reference to which the rule of ejusdem generis can be properly invoked. Besides, the context of the clause clearly suggests that it is intended to take in all beverages other than those earlier specified provided they contain fruit juices or fruit pulp.

Held that the "Sharbat Rooh Afza" fell within Clause 2(d)(v) of the order and as such its production could be controlled by its relevant provisions.

19. In [The State of Bombay Vs. Ali Gulshan](#), it was observed as under:

Before the ejusdem generis rule of construction can be applied, apart from the fact that the rule must be confined within narrow limits, and general or comprehensive words should receive their full and natural meaning unless they are clearly restrictive in their intendant, it is requisite that there must be a distinct genus, which must comprise more than one species.

The words "any other purpose" in Section 6(4)(a) of the Bombay Act, 23 of 1948, should not be read ejusdem generis with "the purpose of the State" for if they have been used only to mean a State purpose, they would become mere surplusage; Courts should lean against such a construction as far as possible, AIR 1953 Bom. 337 (reversed).

20. In the above case the question was "was the Government of Bombay entitled under Clause (a) of Sub-section (4) of Section 6 of the Bombay Land Requisition Act, 1948 to requisition, as for a public purpose, certain premises for housing a member of the staff of a foreign Consulates? Clause (a) of Sub-section (4) of Section 6, omitting portions unnecessary ran in these terms:

The State Government may, by order in writing, requisition the premises for the purpose of a State or any other public purpose, and may use or deal with the premises for any such purpose in such manner as may appear to it to expedient." While dealing with the doctrine of ejusdem generis it was held as mentioned above.

21. Learned counsel for the petitioners placed reliance on M.P. Agarwal v. The State of Rajasthan and Anr.: 1978 WLN (UC) 383. In the above case question was whether the words "or otherwise" used in Rule 9(2) of Rajasthan Medical and Health Services Rules, 1963 be given restricted meaning. Reliance was placed on [George Da Costa Vs. Controller of Estate Duty in Mysore, Bangalore](#), and [Narayan Bhondeo Pimputkar and Another Vs. Laxman Purshottam Pimputkar and Others](#), and it was held that the words "or otherwise" must be given a restricted meaning in consonance with the intention expressed by the Rule making authority in the preceding clause i.e. "for

non-availability" of suitable candidates. It was also observed as under:

The ejusdem generis rule as applied by the Supreme Court in *George D. Costa v. Controller of Estate Duty Mysore* (1) can be invoked for adopting such a construction. The same result can also be arrived at by applying the rule "*Noscitur a Sociis*" According to the said rule the words preceding an expression may throw light on its meaning and, therefore, the words preceding the expression "or otherwise" can be looked into for the purpose of interpreting the said expression. Thus, whether the ejusdem generis rule or the *Noscitur a sociis* rule is applied, the result is that, the expression "or otherwise" has to be construed in the light of the expression "for non-availability of the suitable candidates which precedes it and it comprehends only those cases in which due to some reason beyond the control of the Government it has not been possible for the Government to fill the vacancies in the particular year. I am not in agreement with the submission of the learned Deputy Government Advocate the putting a narrow construction on the words "or otherwise" in Sub-rule (2) of Rule 9 would result in curtailment of the rights of the Government servants. In my view, the protection which has been conferred by the carry forward Rule contained in Sub-rule (2) is of a very limited nature available for a period of one year only and the mischief which might result on account of giving a wide construction to the expression "or otherwise", as suggested by the learned Dy. Government Advocate, is much greater than the benefit which may accrue to the Government servant on account of such a wide construction.

In the above case no argument was made whether the words "for non-availability of suitable candidate" form a genus or category or not. The words "or otherwise" were given a restricted meaning on the ground that the protection, which had been conferred by the carry forward rule contained in Sub-rule (2) was of very limited nature available for a period of one year only and the mischief which might result on account of giving wide contention to the expression "or otherwise" as suggested by the learned Deputy Government Advocate was much greater than the benefit which might accrue to the Govt. servants on account of such a wide construction. The facts and circumstances in the above case were entirely different. In the case before me the question is regarding giving authority to persons other than the police officers to empower them to detain vehicles used without certificate of registration or permit. The intention of the Legislature is very clear in using the words "or other person" that person other than police officer can also be authorised by the State Government. There is no question of applying the rule of ejusdem generis in the present case, firstly; because the Word any police officer does not constitute a class or category and secondly, the intention of the legislature in using the words "or other person" is manifest to show that the State Government could also authorise persons other than the police officer. The entire scheme of Section 129A shows that the legislature intended to empower the State Government to authorise other persons also apart from the police officer for the purpose of exercising power u/s 129A of the Act.

22. Learned counsel for the petitioners also placed relied on George D. Costa's case (supra) and Narayan Bhondeo Pimputkar's case (supra). In George D. Costa's case (supra) it was held as under:

The second part of the Section has two limbs: the deceased must be entirely excluded (i) from the property, and (ii) from any benefit by contract or otherwise. It was argued for the appellant that the expression "by contract or otherwise" should be construed ejusdem generis and reference was made to the decision of Hamilton, J. in 1911 2 KB 638. On this aspect of the case we think that the argument of the appellant is justified. In the context of the section the word "otherwise" should, in our opinion, be construed ejusdem generis and it must be interpreted to mean some kind of legal obligation or some transaction enforceable at law or in equity which, though not in the form of a contract, may confer a benefit on the donor. But it was contended by Mr. Sen for the respondent that the case of the Revenue does not rest upon the second limb of the section but upon the first limb which requires that the donor must have been entirely excluded from possession and enjoyment of the property. It was pointed out that there was no such exclusion in the present case and the finding of the Board is that the deceased continued to stay in the house till his death as the head of the family, and was looking after the affairs of the house-hold. It was contended, therefore, that the first limb of the section is not satisfied in this case and the property must be held to pass on the death of the deceased under that section. In our opinion, the contention of the respondent must be accepted as correct. As a matter of construction we hold that the words "by contract or otherwise" in the second limb of the section will not control the words "to the entire exclusion of the donor" in the first limb. In other words, in order to attract the section it is not necessary that the possession of the donor of the gift must be referable to some contractual or other arrangement enforceable in law or in equity. Even if the donor is content to rely upon the mere filial affection of his sons with a view to enable him to continue to reside in the house, it cannot be said that he was "entirely excluded from possession and enjoyment" within the meaning of the first limb of the section, and, therefore, the property will be deemed to have passed on the death of the donor and will be subject to levy of estate duty.

In the above case, in the context, in which the word "otherwise" was used, it was construed ejusdem generis and it was interpreted to mean some kind of legal obligation or some transaction enforceable at law or in equity, which, though not in the form of a contract, may confer a benefit on the donor. The above case in my view renders no assistance to the petitioners and is clearly distinguishable. Here the Legislature u/s 129A wanted to confer rights on the State Government to authorise other person also in addition to a police officer.

23. In Narayan Bhondeo Pimputkar's case (supra) the words "any decree or order of a court" were preceded by the words "anything contained in any settlement, grant, agreement, sanad" it was held that it was a well established rule in construction of

statute that general terms following particular ones apply only to such persons or things as are ejusdem generis with those comprehended in the language of the legislature. In other words, the general expression is to be read as comprehending only things of the same kind as that designated by the preceding particular expressions, unless there is something to show that a wider sense was intended. The above case also does not render any assistance to the petitioners. In the case before us the intention of the legislature is clear beyond any manner of doubt that the words "or other person" have been used to give a wider sense and not in a restricted manner as contended by the learned Counsel for the petitioners.

24. Learned counsel for the petitioners also placed reliance on in-the matter of Sir Stuart Samuel: 21 IC 765. In the above case their Lordships of the Privy Council considered the question viz., "Whether by reason or the facts which have been reported by the above named Select Committee of the House of Commons, the said Sir Stuart Samuel is disabled from sitting and voting in the House". The facts were that Sir Stuart Samuel being a member of House of Commons for the Tower Hamlets, was partner in a firm which made contracts with the Secretary of the State for India in Council for borrowing money upon short loans, for purchasing India Council Bills and India Treasury Bills for subscribing to India Government loans and for purchasing silver for the purpose of Indian Currency. While dealing with this question it was observed as under:

In the first place the member of Parliament must have "directly or indirectly" undertaken the contract with "the Commissioners of His Majesty's Treasury or of the Navy or Victualling Office" or "the Master General or Board of Ordinance" or "any one or more of such Commissioners" any other person or persons whatsoever.

In the second place it must appear that the contract was made "for or on account of the public service". And it was argued that in this particular case both these limitations had the effect of taking Sir Stuart Samuel's case out of the Statute.

The meaning of the first limitation was much discussed in argument at the Bar, and must be determined by the familiar canons of construction. All the persons enumerated in the first section of this Act were servants of the Crown in 1782 (the date of the Act) holding offices in the British as contrasted with the Irish Government or any other Government of the King's dominions or dependencies beyond the seas. They were officers of the British Government, which was also the Imperial Government of the King. When, therefore, the first Section of the Act of 1782, after enumerating these several office holders, proceeds to add the words "any other person or persons what so ever", the doctrine of ejusdem generis applies. Any "other person" meant any one who held an office in the British Government of a similar kind to these enumerated.

25. The principle of ejusdem generis in the above case was applied as the words "any other person or persons what so ever" were enumerated after several office

holders like the Commissioners of His Majesty Treasury or of the Navy or Victualling office or the Master General or Board of Ordinance. The above case as such is not applicable at all to the facts of the case before me.

26. Mr. R.R. Vyas, learned Counsel for one of the petitioners also contended that powers and duties of Corporation have been mentioned in Sections 18 & 19 of the Road Transport Corporation Act, 1950 and no further powers can be given to the Corporation beyond such Sections. It is submitted that u/s 129A of the Act officers of the Corporation cannot be authorised to exercise powers beyond the powers given to the Corporation itself u/s 19 of the Road Transport Corporation Act. The argument is totally misconceived. Section 18 of the Road Transport Corporation Act lays down general duty of Corporation and Section 19 lays down the powers of the Corporation. These provisions have nothing to do with the provisions of the Motor Vehicles Act which govern all kinds of vehicles whether belonging to a Corporation or other body or person. The scope of both these Acts, namely, the Road Transport Corporation Act, 1950 and the Motor Vehicles Act, 1939, is totally different and both operate in different fields. Section 129A gives power to detain vehicles used without certificate of registration or permit and the Supreme Court in *Sardarali's case* (supra) has already held that this Section 129A is not ultra vires to Article 19(1)(g) of the Constitution of India. It has also been held in the above case that the section cannot be said to be unreasonable on the ground that there was no provision for preparing a list of the things seized in the course of the seizure.

27. In the result I find no force in these writ petitions and the same are dismissed with no order as to costs.