

(2016) 02 AHC CK 0254

In the Allahabad High Court

Case No : Public Interest Litigation (PIL) No. 3127 of 2016

Agnivesh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 23-02-2016

Acts Referred:

Constitution of India, 1950 — Article 129

Citation : (2016) 3 ADJ 549 : (2016) 3 AILLJ 259 : (2016) 3 ALLMR 1 : (2016) 3 AllWC 2317 : (2016) 115 ALR 843 : (2016) 2 UPLBEC 979

Hon'ble Judges : Dr. D.Y. Chandrachud, C.J. and Yashwant Varma, J.

Bench : Division Bench

Final Decision : Disposed off

Judgement

1. Both the petitioners who are students of law of the University of Allahabad have brought focus on the manner in which registration plates are used on motor vehicles.

2. The Central Motor Vehicles Rules, 1989 provide in Rule 50 the form and manner of display of registration marks on motor vehicles and in Rule 51 the size of letters and numerals of the registration mark.

3. According to the petitioners, in the absence of uniformity, the registration plates which are being used on motor vehicles do not follow any consistent pattern. The registration plates carry references to the names of the holder and very often, occupation. The averments contained in para 11 of the writ petition are as follows:

"That it has now become a tendency or a regular practice used by owners of motor vehicles to use the name tags of Govt. Offices, posts and the most commonly used are Bharat Sarkar, Uttar Pradesh Sarkar, Advocate, Police, Army etc. Due to this practice the mischievous persons use such name tags of offices in order to abscond from police or from the eyes of general public and leaves a bad imprint on the general public that particular office is bad, take the example

of name tag of High Court, Advocate, which is the most abused one among other tags. Even every second or third person is using the tag of High Court or Advocate, which is prohibited. This practice of using tag is now common and there is also a need to put curb on such illegal practices."

4. We may note that the matter was considered by a judgment of the Supreme Court in *Abhay Singh v. State of Uttar Pradesh*, (2013) 15 SCC 435, where it was held that "using of signs and symbols of authority such as red lights, etc. is contrary to the constitutional ethos and the basic feature of republicanism. The parameters of the expression "high dignitaries" in proviso (iii) to Rule 108 (1) of the 1989 Rules was clarified in the judgment of the Supreme Court.

5. In our view, the problem continues to persist due to the laxity in administrative enforcement. Putting of the names of offices and designations seems to be an effort to shield the holder from compliance with traffic regulations and prevent the traffic police from taking necessary enforcement action in accordance with law. This is clearly impermissible.

6. On 25 January 2016, this Court while entertaining the writ petition directed the Regional Transport Officer to cause due publicity of the prevailing provisions of the Rules and to notify the members of the general public that action would be taken against violations or breaches howsoever high a dignitary may be. Moreover, the second, third and fourth respondents were directed to file their affidavits and the learned Standing Counsel was to take instructions in regard to the status of the proposal for the enforcement of high security registration plates in the State of Uttar Pradesh. In pursuance of the order of this Court, counter affidavits have been filed. We will take up the issue of high security registration plates in the first instance.

7. By a judgment of the Supreme Court in *Maninderjit Singh Bitta v. Union of India*, (2012) 4 SCC 568, directions were issued to ensure that all states would positively implement the scheme for fixation of high security registration plates positively by 30 April 2012 in relation to new vehicles and by 15 June 2012 for old vehicles. The Supreme Court made it clear that there shall be no further extension of time for implementation of this direction. The operative direction in that regard was in the following terms:

"Installation of HSRP is a statutory command which is not only in the interest of the security of State, but also serves a much larger public interest. Therefore, it is not only desirable, but mandatory, for every State to comply with the statutory provisions/orders of this Court in terms of Article 129 of the Constitution of India, 1950. All states, therefore, are mandated to fully implement the scheme of fixation of HSRP in their entire state, positively by 30-4-2012 in relation to new vehicles and 15-6-2012 for old vehicles. We make it clear that they shall not be allowed any further extension of time for implementation of this direction."

8. All states which have invited tenders were directed to complete the process of finalizing the successful bidder. Where agreements had not yet been entered into

with the successful bidder, directions were issued to ensure completion within a period of four weeks. In the State of Uttar Pradesh, the State Government had initially issued an advertisement on 20 May 2011 followed by an addenda of 21 June 2011 inviting bids from eligible firms. A contract was awarded and an agreement was executed on 14 February 2012. The award of the contract was challenged before the Lucknow Bench of this Court in writ proceedings. By a judgment and order dated 3 April 2012, the Division Bench allowed the writ petition and issued the following directions:

"(i) A writ in the nature of certiorari is issued quashing the impugned agreement dated 14.2.2012 with consequential benefits and with cost quantified to Rs. 50 lacs (fifty lacs) which shall be deposited in this Court within two months. Out of the cost of Rs. 50 lacs, Rs. 25 lacs shall be deposited by the State Government recoverable from the officers actively participated in finalising the contract in favour of the opposite party No. 3 after holding an enquiry and the remaining Rs. 25 lacs of cost shall be deposited by the respondent No. 3. Cost shall be remitted to the Mediation Centre, Lucknow. In case, within the stipulated period, the cost is not deposited, it shall be recovered as arrears of land revenue.

Registry to take follow-up action.

The State Government may forfeit the security deposit of the opposite party No. 3 in terms of the provisions contained in Clause 2.24.3 of the tender document.

(ii) A writ in the nature of mandamus is issued directing the State Government to re-advertise the bid with due modification of the tender document strictly in accordance with rules, the Order, 2001 and the guidelines dated 16.3.2002, issued by the Government of India (supra) and keeping in view the observation made in the body of judgment within one week from today, scheduling the date in such a manner so that the entire process be completed by 30.4.2012 in compliance of the judgment of Hon"ble Supreme Court.

(iii) The Central Bureau of Investigation is directed to investigate the entire process with regard to grant of contract including the criminal antecedents and link of the opposite party No. 3 for supply of HSRP in the State of U.P. in accordance with law, expeditiously say, within six months and submit a status report to this Court at the interval of every two months till the investigation reach to its logical end.

(iv) Registry shall send a copy of the present judgment to the Director, C.B.I., New Delhi as well as provide a copy to the learned counsel for the CBI of this Court and the Chief Secretary of the State for compliance. A copy shall also be sent to Hon"ble Chief Justice of Allahabad High Court for information and appropriate action to provide due training or take steps so that judicial officers working in the government discharge their obligation without fear or favour and in accordance with law."

9. This order was challenged before the Supreme Court by the successful bidder

in whose favour a contract had been executed. On 12 April 2012, the Supreme Court by an interim direction stayed the operation of the judgment of the Lucknow Bench except to the extent that the State Government was granted liberty to proceed with the tender process and to finalise it subject to the condition that no contract would be awarded pursuant thereto without the leave of the Court. The stay granted, it was clarified, would not entitle the petitioner before the Supreme Court to operate the contract in the meantime. By a judgment and order dated 12 January 2016, the Supreme Court allowed the appeal against the decision of the Lucknow Bench and modified the directions in the following terms:

"(a) The cost imposed by the High Court was absolutely unnecessary and is, accordingly, set aside.

(b) There was no justification for directing investigation by the Central Bureau of Investigation and, accordingly, the said direction is annulled.

(c) As the Government had awarded the contract in favour of the appellant, there was no justification to direct forfeiture of security deposit. As a result of the aforesaid directions, the security deposit, as well as the performance guarantee, be refunded to the appellant.

(d) The prohibition imposed by the High Court prohibiting the appellant from participating in the tender is set aside."

10. In the meantime, the State Government had in pursuance of the interim order of the Supreme Court dated 12 April 2012 issued a public notice on 29 April 2012. An application was filed before the Supreme Court after processing the tender on 13 July 2012 for the award of a Letter of Intent in favour of the successful bidder. In the meantime, on a complaint received by the State Government from the Association of Registration Plates Manufacturers of India, a verification was made with the Income Tax Department which revealed that the successful bidder had not filed a genuine income tax return. The State Government accordingly on 14 August 2014 cancelled the bid. On 3 February 2015, the State Government cancelled the proceedings in pursuance of the tender notice dated 29 April 2012 and decided to initiate a fresh process of inviting tenders. On 10 November 2015, a public notice was issued and a pre-bid conference was held on 2 December 2015. In view of the decision of the Supreme Court dated 12 January 2016 disposing of the civil appeal which arose from the judgment of the Lucknow Bench, the State Government has now stated before this Court on affidavit that there is no impediment in the completion of the tender process which was initiated on 10 November 2015. The process will be finalized in accordance with the terms and conditions of the tender notice soon so as to ensure implementation of high security registration number plates in the State of Uttar Pradesh. The Court has been assured that the process would be completed within a period of three months from today so as to ensure that the implementation of the scheme which was to be completed in pursuance of

the directions which were issued in *Maninderjit Singh Bitta (supra)*, is completed with the highest priority within the aforesaid period.

11. The next aspect of the matter relates to the violation of the Rules by the use of personal identification names and marks on registration plates. In this regard, it must be noticed that in *Sudarsha Avasthi v. State of U.P.*, 2007 (1) AWC 736 a Division Bench of this Court by judgment dated 23 June 2006 had issued specific directions in the following terms:

"No person of private or Government sector shall be permitted to fix a board, plaque or plate in front or back of a vehicle for any reason whatsoever. The fixation of such boards, plates or plaques are not permissible under Rule 50 referred hereinabove. Such boards, plates or plaques should be removed immediately while plying on road and should be treated as offence under the Act calling for punishment under Section 177 of the Central Act and other provisions."

12. Evidently, these directions have not been strictly enforced by the State Government. Now, in pursuance of the previous order of this Court, the Assistant Prosecution Officer (Transport) has placed on the record communications issued, inter alia, to the State Bar Council, Bar Associations, Superintendents of Police, Regional Food Controllers, District Basic Education Officers, District Inspector of Schools, District Social Welfare Officers, Commissioner of Income Tax and District Supply Officers among other government officials for ensuring compliance. Even these circulars have been predominantly issued to the government officials in the district of Allahabad. The enforcement action should not only be confined to the district of Allahabad but must be adopted with all seriousness across the State. Compliance with the Rules cannot only be confined to the district of Allahabad and must be ensured throughout the State.

13. We accordingly direct the Secretary, Ministry of Transport in the State Government to issue strict directions to all the Regional Transport Officers across the State to take enforcement action to ensure that all such violations of the Rules in the form of improper registration plates are strictly dealt with by the imposition of penalties as permissible in law. The Secretary in the Ministry of Transport shall monitor on a monthly basis the compliance made by the Regional Transport Officers who shall submit monthly reports to the Principal Secretary in regard to the extent of enforcement and nature of compliance. Circulars shall accordingly be issued to all the heads of the respective departments across the State of U.P. to ensure compliance in strict terms.

14. We clarify that the compliance shall be exacted from all vehicles whether they be private or public vehicles.

15. The petition is accordingly disposed of. There shall be no order as to costs.