
(2001) 07 AHC CK 0144
In the Allahabad High Court
Case No : C.M.W.P. No. 27633 of 2001

Asha Devi

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 27-07-2001

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 129, 130, 131, 132, 133
Constitution of India, 1950 — Article 19, 19(1)
Essential Commodities Act, 1955 — Section 3, 5

Citation : (2001) 4 AWC 2495

Hon'ble Judges : V.M. Sahai, J;Sudhir Narain, J

Bench : Division Bench

Advocate : A.D. Saunders, for the Appellant;

Final Decision : Dismissed

Judgement

Sudhir Narain, J.—The petitioner has challenged the validity of condition No. 4 in the Government order dated 2.8.2000 and condition No. 10 in the Government order dated 4.1.2001, whereby the petty diesel dealers are required to obtain supply of diesel oil in drum and conduct the sale also from drums only.

2. The petitioner is owner of a tanker and transports high speed diesel oil through her tanker. Her grievance is that if the petty diesel dealers are required to obtain sell diesel in drums only, her business will be affected.

3. The Parliament has enacted Essential Commodities Act. 1955, (in short the "Act"). It provides for control of production, distribution and supply, etc. of certain commodities including the high speed diesel oil. Section 3 of the Act empowers the Central Government to make Control Orders while Section 5 of the Act provides for delegation of power to the State Government to make Control Orders. The State Government of U.P. under the delegated powers, has issued several control orders including control orders for high speed diesel oil and light diesel oil known as U.P. High Speed Diesel Oil and Light Diesel Oil (Maintenance of Supply and Distribution) Orders, 1981 (in short the "control orders"). The

licence is granted to the persons engaged in the business of high speed diesel oil under aforesaid control orders. The licence contains other terms and conditions to which a licensee has to adhere.

4. On 2.8.2000, the State Government issued a Government order placing certain restrictions under clause (4) of the aforesaid Government order. The petty diesel dealer is required to carry on his trade/business of diesel oil and it is compulsory on him to obtain supplies in drum and shall conduct the sale also from the drums only.

5. The State Government issued another Government order dated 4.1.2001 in which condition No. 10 is similar as condition No. 4 of Government order dated 2.8.2000, referred to above.

6. The contention of the petitioner is that the conditions mentioned in the aforesaid Government orders affects the business of the petitioner as she has a tanker and after the enforcement of the Government orders, her tanker will be of no use. She has been deprived of to carry on business, which is her fundamental right under Article 19(g) of the Constitution.

7. The aforesaid Government orders have been issued for protecting the interest of the petty diesel dealers. On 3.5.2000. the Government wrote a letter to all the .District Magistrates and District Supply Officers inviting their attention that in village Beri of district Mathura, fire broke out in a shop of a petty diesel dealer and about 200 persons were injured. It issued certain directions to the officers to avoid such incidents in future and the petty dealers were required to comply with those conditions. It is for the interest of the petty diesel dealers and the public at large, the Government has put certain conditions upon the petty diesel dealers. The right of the petitioner to carry on business has not been affected. It may be that the petitioner may not be able to supply diesel to the petty diesel dealer through her tanker but she can use the tanker for other purposes.

8. It is next submitted by Sri A. D. Saunders, learned counsel for the petitioner that the condition imposed by the aforesaid Government orders are in contravention of Rules 129 to 136 of the Central Motor Vehicles Rules. 1989. These Rules relate to the plying of the motor vehicles. It does not provide that only the tanker should be utilized by a consumer or any person.

9. We do not find any merit in the writ petition. It is, accordingly, dismissed.