
(2014) 02 MP CK 0058

In the Madhya Pradesh High Court

Case No : Writ Petition No. 289 of 2013

Awdhesh Sharma and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 26-02-2014

Acts Referred:

Constitution of India, 1950 — Article 226
Motor Vehicles Act, 1988 — Section 110

Citation : (2014) 02 MP CK 0058

Hon'ble Judges : Sheel Nagu, J

Bench : Single Bench

Advocate : N.S. Kirar, for the Appellant; Praveen Newaskar, Dy. Government Advocate for State, for the Respondent

Final Decision : Disposed Off

Judgement

Sheel Nagu, J.—The present petition filed under Article 226 of the Constitution of India prays for following reliefs:-

1. The order passed by the respondents removing already fitted glasses from the buses of the petitioners by replacement of 100% visible glasses be set aside;
2. Respondents be restrained from compelling petitioners to change glasses of their side windows of the vehicle;
3. It may be held that that respondents are bound by the provisions of Central Motor Vehicles Act and Central Motor Vehicles Rules and M.P. Motor Vehicles Rules as aforesaid accordingly buses owned by the petitioners be permitted to be plied specifying other conditions.
4. Any other relief which this Hon''ble Court deem fit and proper be also allowed.

The petitioners, who claim themselves to be bus operators, are aggrieved by the action of the official respondents in compelling them to change the glasses of the side windows of their buses and replacing the same with glasses of 100%

visibility.

2. Learned counsel for petitioners referring to the provisions of Rule 100(2) and Rule 128(7) of the Central Motor Vehicles Rules, 1989 contends that the impugned direction of removing the existing fitted glasses from the buses of the petitioners and replacing the same with glasses comprising of 100% visibility cannot be sustained in law.

3. Before venturing into the factual realm, it would be appropriate to deal with the legal aspect.

4. Section 110 of the Motor Vehicles Act, 1988 ("Act of 1988" for brevity) empowers the Central Government to make Rules on several factors enumerated thereunder including use of safety glasses including use or otherwise of tinted safety glasses by providing as follows:-

110. Power of Central Government to make rules.-

(1) The Central Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers with respect to all or any of the following matters, namely:-

(a) xxx xxx xxx

(b) xxx xxx xxx

(c) xxx xxx xxx

(d) the use of safety glasses including prohibition of the use of tinted safety glasses.

5. Exercising the abovesaid power contained in Section 110 of the Act of 1988, the Central Government framed the Central Motor Vehicles Rules, 1989 ("Rules of 1989" for brevity) inter alia containing Rules 100 and 128. The provisions contained in both the said Rule 100 and 128 of Rules of 1989 are reproduced hereinbelow for convenience:-

100. Safety glass.-

(1) xxx xxx xxx

(2) The glass of the windscreen and rear window of every motor vehicle shall be such and shall be maintained in such a condition that the visual transmission of light is not less than 70%. The glasses used for side windows are such and shall be maintained in such condition that the visual transmission of light is not less than 50%, and shall conform to Indian Standards.

128. Tourist vehicles other than motor cabs, etc.-A tourist vehicle other than motor cab, taxicab, campers van house trailer, shall conform to the following specifications, namely:-

(1) xxx xxx xxx

(2) xxx xxx xxx

(3) xxx xxx xxx

(4) xxx xxx xxx

(5) xxx xxx xxx

(6) Windscreen.-

(i) The front windscreen shall be of clear view and distortion free, with safety glass and shall be of full width of the tourist vehicle. If made in two halves, the width of the centre vertical joint, inclusive of the rubber glazing fitment of the front windshield shall be such as to enhance the elegance of the tourist vehicle.

(ii) Rear windscreen shall be of safety glass or laminated safety glass. It shall match with the windows provided on the vehicle. Sliding curtains shall be provided on the rear windscreen.

(7) Windows.-Windows of tourist vehicles should have a minimum space of 14.25 millimeters and shall be of safety or laminated safety glass.

Windows shall be of double sliding type slider running smoothly in channels without rattle. All safety or laminated safety glasses used for windows should conform to standards laid down by the Bureau of Indian Standards. Windows shall be provided with sliding curtains.

6. While filing the petition, the petitioners did not assail any specific order but later by an application for taking documents on record (IA No. 403/2013), an order dated 27.12.2012 of the Government of Madhya Pradesh has been brought on record. A perusal of this order dated 27.12.2012 indicates that the same is a direction for subordinate authorities to take strict action against the motor vehicles, which do not comply with the Motor Vehicles Act, 1988 and the Rules framed thereunder; in particular Rule 102 of the Central Motor Vehicles Rules prescribing extent visual transmission of lights through the glasses installed in the vehicles.

7. The abovesaid order of the Government of Madhya Pradesh dated 27.12.2012 has been issued pursuant to elaborate directions of the Apex Court in the case of Avishek Goenka Vs. Union of India (UOI) and Another, after taking into account the provisions of the Act of 1988 and the Central Motor Vehicles Rules, 1989. Thus, this Court does not find any illegality in the order of the Government of Madhya Pradesh dated 27.12.2012.

8. The concept of use of any film over the glasses installed in the vehicles is foreign to the provisions of the Act of 1988 and Central Motor Vehicles Rules. The extent of visual transmission of light is prescribed differently for glasses installed at different places in the vehicle. The reduction of visual transmission of light passing through the glasses used in the vehicle cannot be achieved by an adhesive film over the glasses, but is permitted exclusively to be achieved only

by installation of tinted glasses.

9. In view of the above, no fault can be found in the action of the respondents/ authorities for penalizing the violators of the provisions of the Act of 1988 and the Central Motor Vehicles Rules, 1989.

10. This petition is, thus, disposed of with a direction that the action against the vehicles of the petitioners can very well be taken in case of failure to comply with the mandatory provisions of the Rules 100 and 128 of the Central Motor Vehicles Rules, 1989. No order as to cost.