(1980) 08 MP CK 0029

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 204 of 1980

Bundelkhand Travels, Chhatarpur APPELLANT

Vs

State of M. P. and others RESPONDENT

Date of Decision : 23-08-1980

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (1983) JLJ 240 : (1983) MPLJ 86

Hon'ble Judges : G.P. Singh, C.J;J.S. Verma, J

Bench : Division Bench

Advocate : V.S. Dabir, for the Appellant; L.S. Baghel, Dy. Advocate General, for the Respondent

Final Decision : Allowed

Judgement

G.P. Singh, C.J.

By this petition under Article 226 of the Constitution the petitioner challenges the demand of additional tax made by the demand notices Annexures B-l, B-2 and B-3. Notice for admission of this petition was issued to the respondents. Return has been filed. With the consent of the learned counsel for the parties, the petition is heard on merits.

The petitioner is operating a stage carriage under temporary permit granted to him under the Motor Vehicles Act. The demand of additional tax is u/s 3-A (1) of the Madhya Pradesh Motor Vehicles Taxation Act, 1947, as amended by the Madhya Pradesh Motor Vahicles Taxation (Amendment) Act, 1978.

The contention of the petitioner is that the stage carriage is being operated by it within the area of the Special Area Development Authority, Khajuraho, which is a municipal area, and, therefore, no additional tax is payable u/s 3-A (1). The proviso to section 3-A (1) states that ''''no additional tax shall be levied on stage carriages plying exclusively within municipal area or exclusively on such routes serving municipal and adjacent areas as may be approved by the State

Government." The Motor Vehicles Taxation Act contains no definition of municipal area. In the absence of any definition, the expression ''municipal area'' has to be construed in its popular sense. The dictionary meaning of ''municipal'' is "of or having to do with the city, town, etc. or its local government, having self-government locally". Municipality according to the dictionary means "a city, town etc. having its own incorporated government for local affairs;" (Webster''s New World Dictionary, p. 936). The Special Area Development Authority is constituted under the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 The Development Authority constituted for an area under this Adhiniyam is a body corporate with perpetual succession and a common seal as is specifically provided in section 66. Apart from other functions entrusted to it u/s 68, the Development Authority provides for all municipal services as specified in sections 123 and 124 of the Madhya Pradesh Municipalities Act and the corresponding provisions of the Madhya Pradesh Municipal Corporation Act. It has also to provide for the municipal management of the special area in the same manner as is done by a Municipal Corporation or a first-class Municipality under the Corporation Act or the Municipalities Act, as the case may be. The Development Authority has also, as provided in section 69 of the Adhiniyam, all the powers of a municipal councial or a corporation for purposes of municipal administration. It has also the same powers of taxation as municipal council or a municipal corporation. Having regard to these functions of the Development Authority, we are of opinion that the area for which the Development Authority is constituted can be described to be a municipal area in the popular sense in which the expression has to be understood in the proviso to section 3-A. In this connection, we would like to point that there was a special definition of "municipal area" in the Madhya Pradesh Motor Vehicles (Taxation of Passengers) Act, 1959, which did not cover the area for which a Development Authority is constituted. That Act has, however, been repealed and the definition contained in that Act is not available for construing the proviso to section 3-A of the Motor Vehicles Taxation Act as amended. We may further mention that in the permits that were granted to the petitioner it was specifically mentioned that the permits would be operative within the municipal limits. This shows that even the Regional Transport Authority issuing the permits thought that the area for which the Development Authority is constituted is a municipal area.

The petition is allowed. The impugned demand notices are quashed. There will be no order as to costs of this petition.

