
(1991) 01 MP CK 0011
In the Madhya Pradesh High Court

Dalip Kumar

APPELLANT

Vs

R.T.A.

RESPONDENT

Date of Decision : 31-01-1991

Acts Referred:

Motor Vehicles Act, 1988 — Section 74

Citation : (1991) 2 ACC 67

Hon'ble Judges : V.S. Kokje, J;V.D. Gyani, J

Bench : Division Bench

Judgement

V.D. Gyani, J.—This order shall govern the disposal of these petitioner i.e. (M.P. No. 1010/90 Mohd. Ummer v. R.T.A. M.P. No. 942/90 Smt. Surjeet Kaur R.T.A.; M.P. No. 861/ 90 Indersingh v. R.T.A.; M.P. No. 947/90 Updeshsing v. R.T.A. M.P. No. 869/90 Mohd Ashfak v. R.T.A.; M.P. No. 638/90 Umabai v. R.T.A., M.P. No. 1011/90 Omprakash Pandey v. R.T.A. raising a common question of law, It is for this reason that they were heard to gather and are being decided by a common order.

2. The petitioners are claimants for permits to ply auto rickshaw in the city of Indore. One of the conditions imposed by the respondent is that latest model i.e. of the year 1990 auto rickshaws be introduced on the roads, and it is this imposition of condition which has been challenged in all these petitions.

3. Shri Gupta, learned Counsel appearing for the petitioners argued that firstly such a condition could not be legally imposed moreso, when the permits were applied for, in the later part of the year 1989. It is however, not in dispute that the impugned order imposing the aforesaid condition was passed much later. It was also contended on the basis of a solitary instance that discrimination was practised by the respondent but this plea was later abandoned, when it was brought to the notice of the petitioners "counsel that even in this solitary case the application was made in the year 1987 and order was passed much prior to the impugned order.

4. The sole question that survives for consideration is whether the respondent can impose such a condition of plying a latest model, vehicle.
5. Section 74 of the Motor Vehicle Act, 1988 (for short "The Act") governs grant of permit. The various conditions which can be imposed have been enumerated thereunder and lastly in clause (iii) it is said "any other conditions may be prescribed." It is in exercise of this power that the condition has been prescribed. It cannot, therefore, be contended that the respondent has no power to impose such a condition.
6. What now remains to be seen is whether it has any rationale behind it and has any nexus with the statutory object. The Supreme Court in *Subhash Chandra and Others Vs. State of U.P. and Others*, had occasion to consider the aspect of the matter, the vehicle being fit to ride as additional requirement and safety factor in the shape of the year of the model has been held to be an extra measure, a further insurance against machine failure.
7. Following the above judgment, we do not find any unreasonableness in the condition regarding model of the vehicle. It may be noted that permit-seekers, in the past have been buying and bringing old models of vehicles from adjoining states of Gujarat and Maharashtra and plying them on the roads of the city.
8. For the foregoing reasons these petitions deserved to be dismissed. They are accordingly dismissed with no order as to costs.