
(1995) 03 KL CK 0039
In the High Court Of Kerala
Case No : W.A. No. 336 of 1995-A

G. Balakrishna Pillai

APPELLANT

Vs

The Joint Regional Transport Officer and Another

RESPONDENT

Date of Decision : 14-03-1995

Acts Referred:

Constitution of India, 1950 — Article 14
Kerala Motor Vehicles Rules, 1989 — Rule 290(2)
Motor Vehicles Act, 1988 — Section 96(2)

Citation : (1995) 2 ACC 264 : AIR 1996 Ker 96 : (1995) 2 ILR (Ker) 797

Hon'ble Judges : M.M. Pareed Pillay, C.J;T.V. Ramakrishnan, J

Bench : Division Bench

Advocate : S.A. Kassak, for the Appellant;

Final Decision : Dismissed

Judgement

Pareed Pillay, C.J.—Appellant filed O.P. 1342 of 1995 challenging inter alia amendment to Rule 290 of the Kerala Motor Vehicles Rules, 1989. The amendment came into existence on 25-10-1993, the date on which the amended rule was published in the Gazette. By the amendment Sub-rule (2) was added stipulating that every educational institution bus shall be painted with "Cream-Yellow Colour". Challenge is on the ground that it is an unreasonable restriction and that the amendment has no nexus with the object sought to be achieved.

2. Contention of the appellant is that no other private service vehicle or public transport vehicle is subjected to such an unreasonable condition regarding painting of the body with a particular colour, that the buses belonging to I. S. R. O., Trivandrum, KELTRON, Trivandrum, F.A.C.T., Udyogamandal and Cochin Refineries Ltd., Ambalamugal are used without any restriction as to the colour of the paint used and therefore singling out the vehicles belonging to educational institutions is discriminatory and hence violative of Article 14 of the Constitution of India.

3. Section 96 of the Motor Vehicles Act, 1988 empowers the State Government

to make rules for the purpose of Chapter V. Chapter V contains various provisions for the control of transport vehicles. Section 96(2) enumerates different heads with respect to which rules can be made. Section 96(2)(xviii) enables the State Government to regulate the painting or marking of transport vehicles and the display of advertising matters thereon and in particular prohibiting the painting or marking of transport vehicles in such colour or manner as to induce any person to believe that the vehicle is used for the transport of mails. The indubitable position is that the State Government can enact rules regulating the painting of vehicles. As Rule 290(2) was framed in exercise of the powers u/s 96(2)(xviii) of the Act, contention of the appellant that State Government lacked power to make regulations regarding painting of vehicles is untenable.

4. The Government felt it necessary to have more precautions for the operation of buses carrying school children. That motivated the State Government to frame the aforesaid rule. As a precautionary measure Government wanted that every educational institution bus should be painted in "Cream-Yellow colour". Merely because there is no requirement that other private buses should be painted in a specified type of colour it cannot be contended that Rule 290(2) is arbitrary and violative of Article 14 of the Constitution of India.

5. Section 2(11) defines educational institution bus. "Educational institution bus" means an omnibus, which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities. As school students needed more care and attention, State Government felt it necessary to have the buses identified by separate colour. The effect of the painting is really to bestow special attention and care to the school children when they travel in clearly identifiable vehicles. As the "educational institution bus" forms a class by itself in contradistinction to other vehicles, it cannot be held that Rule 290(2) is violative of Article 14 of the Constitution of India.

6. As educational institution buses stand as a class by itself, the statutory requirement to have it painted in a particular colour cannot be held to be discriminatory on the ground that so far as other vehicles are concerned there is no such regulation for painting. The following two conditions must be satisfied to pass the test of reasonable classification:--

- (1) The classification must be on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and
- (2) the differentia must have rational relation to the object sought to be achieved by the statute in question.

The above tests are certainly satisfied so far as the amendment is concerned. It is not possible to hold that the amendment has no nexus with the object sought to be achieved. The real object of the amendment is to identify the vehicles carrying school children from other vehicles and hence contention of the appellant that Rule 290(2) is arbitrary and violative of Article 14 of the

Constitution of India is not tenable. Article 14 does not divest the State of its powers of reasonable classification. Every classification is likely to produce some inequality. When as a result of classification some inequality emerges, one cannot jump to the conclusion that the classification is per se bad.

There is no merit in the writ appeal. Writ appeal is accordingly dismissed.