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**(2002) 09 AP CK 0076**  
**In the Andhra Pradesh High Court**  
**Case No : Writ Petition No. 3429 of 2002**

Md. Sardar Khan

APPELLANT

Vs

Commissioner of Police and Another

RESPONDENT

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**Date of Decision :** 09-09-2002

**Acts Referred:**

Hyderabad City Police Act, 1348 — Section 21

**Citation :** (2002) 6 ALD 99 : (2002) 6 ALT 279 : (2002) 3 APLJ 438

**Hon'ble Judges :** V.V.S. Rao, J

**Bench :** Single Bench

**Advocate :** N. Subba Reddy, for the Appellant; Government Pleader for Home for Respondent Nos 1 and 2, for the Respondent

**Final Decision :** Dismissed

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## Judgement

V.V.S. Rao, J.—The petitioner is the owner of transport vehicles, which usually ply within the twin cities. The present writ petition is filed alleging that the respondents namely, the Commissioner of Police, Hyderabad and Deputy Commissioner of Police (North Zone) are prohibiting entry of petitioner's vehicles bearing Nos.QAPN 4675, ATT 6461, APT 5184, APT 5508, AP 12 T 1824, AAT 9011, AP 10 U 7125, AP 10 U 7124, AP 12 T 331, AP 11 U 7027, ATR 563, AAR 1719 and ADT 8289 and also levying penalties arbitrarily ranging from Rs.100/- to Rs.2000/-. The petitioner prays for a declaration that the action of the respondents in prohibiting entry of vehicles on certain roads as well as levying penalties as alleged is illegal and arbitrary. The petitioner also gave various instances where the authorities levied penalty ranging from Rs.100/- to Rs.2,000/-.

2. So as to dispose of the matter at the admission stage this Court directed the learned Government Pleader to file counter affidavit. After filing the counter-affidavit the matter was heard and is being disposed of at the admission stage.

3. In the counter-affidavit filed by the Deputy Commissioner of Police (Traffic) all

the allegations made in the affidavit filed in support of the writ petition are denied. It is further stated that all the drivers of the petitioner's vehicles have committed various traffic offences punishable under the provisions of the Motor Vehicles Act, 1988 and Motor Vehicles Rules, 1989, that the police are not prohibiting plying of lorries but are only regulating the movement of traffic during school and office hours. He has also annexed two separate statements showing the list of lorries involved in traffic violations in the years 2001 and 2002. The lists contain particulars of the vehicles allegedly owned by the petitioner. The same would show that the petitioner's lorries were penalised for violating traffic rules not on one count but on more counts than one.

4. Sri N. Subba Reddy, the learned Counsel for the petitioner would submit that the respondents are adopting an arbitrary method in regulating the lorries, that no definite guidelines or instructions are issued and therefore the traffic regulations lack transparency and that even for collection of fines/compounding fees under the Motor Vehicles Act and Rules arbitrary method is being adopted. The learned Assistant Government Pleader produced various notifications and Government Orders in support of his contention that the traffic police are strictly following these notifications. A brief reference to these notifications is necessary in order to appreciate the contentions advanced by both the Counsel.

5. The first respondent issued a notice bearing No. Tr. T4/242/92 dated 27.4.1992 in exercise of powers conferred under clause (b) of Sub-section (1) of Section 21 of the Hyderabad City Police Act imposing restrictions on the movement of lorries purportedly to maintain smooth flow of traffic and to prevent danger, obstruction and inconvenience to the public. The inter-District and inter-State lorries in twin cities are permitted to ply between 9.00 p.m. to 8.00 a.m. on specified routes and can leave the city only from 12.00 noon to 3.00 p.m. In paragraph II of the said notification certain restrictions were imposed on local lorries prohibiting them to ply between 8.30 a.m. to 11.00 a.m. and 4.00 p.m. to 6.30 p.m. However, it was clarified that the said restrictions are not applicable to the light motor vehicles i.e., transport vehicle, omni bus, motor car, tractor or road roller having unladen weight not exceeding 6000 Kgs. Further, the entry of loaded, empty and parking of lorries is prohibited from 10 p.m. to 8 a.m. in the specified colonies and on specified roads of the twin cities.

6. The said notification which came into force with effect from 28.4.1992 was in force for a period of six months. The same was extended from time to time till a new notification being Tr. T/378/1997 dated 11.11.1997 was issued, which is also to the same effect with a slight difference. Under the new notification, the entry of the inter-District and inter-State lorries is prohibited within the municipal limits from 8 a.m. to 10 p.m. except a for relaxation of two hours from 12 noon to 2.00 p.m. for entry/exit of lorries from city.

7. Chapter XIII of the Motor Vehicles Act deals with the offences, penalties and the procedure. Section 177 is omnibus provision which lays down that whoever contravenes any provision of the Act or Rule, Regulation or notifications, if no

penalty is provided for the offence, will be punishable with fine which may extend to Rs. 1,000/- and the second subsequent offence with fine which may extend to Rs. 3,000/-. Sections 178, 179, 180, 181, 182(1), 182(2), 183, 184, 186, 189, 190(2), 191, 192(1), 194, 196 and 198 dealt with various types of contraventions/offences in relation to the use and driving of motor vehicles on the roads. Section 200 of the Motor Vehicles Act enables the State Government to issue a notification to provide for compounding of offences under various sections mentioned hereinabove.

8. In exercise of power u/s 200 of the Act, the Government of Andhra Pradesh issued G.O. Ms. No. 69, dated 16.5.2001 wherein it was specified that the Officers of the Transport Department and Officers of the Police Department in uniform not below the rank of Inspector of Police and also Sub-Inspector of Police (Traffic) can compound the offences and also prescribe the fee as per the schedule. The same was superceded by another notification in G.O. Ms. No. 138 Transport, Roads and Buildings (Transport-11) Department, dated 31.10.2001.

9. The two notifications one issued in the year 1992 and another issued in the year 1997 deal with restrictions/prohibitions imposed on the inter-District/inter-State and local lorries plying within the twin cities. There cannot be any doubt, which is not disputed, that they were issued keeping in view the smooth flow of the traffic and to prevent danger, obstruction and inconvenience to the public especially during school and office hours. The restrictions cannot be said to be either arbitrary or unreasonable.

10. In a recent judgment in State of A.P. and another Vs. Mini Taxi Owners and Drivers Association, Hyderabad and others, (DB), a Division Bench of this Court, to which I was a member, considered the scope and extent of power conferred on the Commissioner of Police u/s 21 (1)(b) of the Hyderabad City Police Act. In the said decision, after referring to the relevant case law, the Court observed thus:

This although does not mean that for the purpose of regulating the traffic, some sort of restrictions cannot be imposed. Such restrictions can certainly be imposed having regard to the congestion of traffic at some places particularly having regard to the importance of the areas and other areas where schools and colleges are situated. But in the instant case, the restrictions on traffic have not been imposed in certain areas or within the school hours, but total prohibition has been imposed on entry of such vehicles within the boundaries of twin cities. The purported permission of the vehicles in question in some peripheral areas neither would serve the purposes of the commutes nor would fulfil the objects for which the permits have been granted inasmuch as by reason thereof, the commuters would not be able to take the benefit of the city cabs to reach their destinations within the main areas of the town and parts thereof.

11. The content, intention and the purpose of the two notifications issued in the years 1992 and 1997 would not enable this Court to countenance the statement of the learned Counsel for the petitioner that they are arbitrary and irrational.

The power to regulate the traffic keeping in view the public interest and convenience inheres in police and it cannot be said that the same is arbitrary.

12. After perusing these notifications, it is not possible to accept the submission of Sri N. Subba Reddy that the authorities have imposed the penalties in an arbitrary manner. No specific instances are pointed out by the learned Counsel nor any reply affidavit is filed denying the counter averments. In the absence of any reply affidavit, the counter affidavit and the various enclosures annexed to it assume importance.

13. In the result, the writ petition fails and is accordingly dismissed. No costs.