

(1989) 08 MP CK 0057

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 281 of 1984

Mohammad Hanan

APPELLANT

Vs

The Regional Transport Authority, Indore Region and Another

RESPONDENT

Date of Decision : 23-08-1989

Acts Referred:

Constitution of India, 1950 — Article 15, 16(1), 19(1)
Motor Vehicles Act, 1939 — Section 50

Citation : AIR 1990 MP 158

Hon'ble Judges : V.D. Gyani, J;A.G. Qureshi, J

Bench : Division Bench

Advocate : A.S. Kutumbale, for the Appellant; Waghmare, Dy. Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

V.D. Gyani, J.—The petitioner challenges the directions date 22-12-1983 (Annexure-1), issued by the respondent No. 1 inter alia providing that tempos purchased from outside in Indore Division, shall not be granted permit to ply in the city of Indore in accordance with the policy decision regarding grant of permits to passenger-auto rickshaws for Indore city, arrived at by the Transport Committee Meeting held on 11-2-1982, file as Annexure-6.

2. The petitioner purchased a passenger-tempo on 10-11-1983 from Nagpur and brought it to Indore, where he wanted to ply it on obtaining a regular permit. He applied for registration on 16-11-1983, under the head "public service vehicle" and also prayed for grant of a temporary permit to ply the tempo as a public service vehicle in the city of Indore. On 30-12-1983 he applied for a Contract carriage permit for plying the tempo within the limits of Municipal Corporation, Indore.

3. Registration of vehicle was refused by the respondents on the ground of policy decisions, Annexure-G and I, referred to above.

4. It is this decision which has been challenged by the petitioner, coupled with a prayer for grant of a temporary permit.

5. The respondents in their return dated 21-5-1985, while admitting the policy-decision, have attempted to justify the same in the following words :

"The Regional Transport Authority constituted u/s 44 of the Act, formulated a policy on 11-2-1982, in respect of passenger tempo for Indore city considering the requirements of Section 50 of the Act. In the said policy it has been laid down that the tempos purchase from Indore Dealers will get permit and tempos brought from outside the Indore Region will not be granted any permit. This policy has been laid down considering the vehicular traffic position of Indore City. It is submitted that the number of tempo-type of vehicles running in Indore city has reached the saturation point and any further increase will only create chaotic conditions and therefore, the Regional Transport Authority has laid down a policy that tempos brought from outside Indore will not get permit, otherwise the number of tempos would be increased tremendously and it would be difficult for the traffic police to regulate and control the traffic. As it is, there is unberable conjection in tempo traffic at Indore and the traffic is already improprtionately hight to the need and requirement of the city."

6. The crucial point that arises for consideration is whether such a condition, as noted above, can be imposed by the respondents? It is to this question mainly and essentially that we are confining our judgment and not to the later prayer for registrtrtion and grant of permit, which would necessarily require consideration of many other factors as was amply made clear to the petitioner's counsel at the time of hearing.

7. The right to formulate a policy is not disputed even by the petitioner. What is disputed is the imposition of such a condition that only such vehicles purchased in Indore shall be granted permits, while those purchased from outside Indore Division shall not. The stand taken by the respondents, as reproduced above, merely justifies the grant of number of permits looking to the needs and congestion of traffic in the city of Indore, but on what valid considerations the vehicles purchased from outside Indore Division can althogcther be excluded from consideration in the matter of registration under the head "public service vehicle¹ and grant of temporary permit?

8. Apart from being unconstitutional, the condition as imposed by the respondents is wholly irrational. It defies one's comprehension. How can a vehicle purchased from Nagpur, is going to add to more congestion in traffic in the city, if presuming there is scope for grant of permit. How such vehicle fare ill, as compared to one purchased in Indorc Division? If there is scope for grant of permit temporary or otherwise, what prevents the authority from considering a vehicle purchased from outside Indore Division on par with one purchased from Indore Division? It seems that the authorities while laying down the policy, were quite oblivious of the spirit of constitutional guarantees contained in Arts. 15,

16(1) and 19(1)(g) of the Constitution of India, which provides equality of opportunities and prohibits discrimination. The imposition of such a condition cannot, therefore, be allowed to stand. It is liable to be quashed and is accordingly quashed.

9. As for the other prayer made by the petitioner, it is now for the authorities concerned to consider his application on merits in accordance with law and decide the same.

10. In the result, this petition stands allowed partly. There shall be no order to costs. Security deposit be refunded to the petitioner after bifurcation.