
(2001) 05 MP CK 0030
In the Madhya Pradesh High Court
Case No : Writ Petition No. 2155 of 2001

Mrs. Anshu Chopra

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 17-05-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2001) 4 MPHT 16 : (2001) 3 MPLJ 558 : (2002) 1 RCR(Criminal) 348

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : Shri Manoj Sharma, for the Appellant; Shri V.K. Tankha, General, for the Respondent

Judgement

Dipak Misra, J.

The present litigation depicts a sad and unfortunate incident. But the picture does not remain tainted as the learned Advocate General frescoed the scene in the utmost truthful manner in spite of the contrary stand in the return and truth always ostracises all that is reprehensible and ushers in a shining glory where hope again blooms.

Smt. Anshu Chopra, the petitioner herein, has approached this Court to call for the entire records pertaining to impounding of her vehicle bearing registration No. M.P. 20-F-5633 and that of all other similar private vehicles on the ground that such an action is not permissible in law and further to take appropriate action against the officials concerned. It has been put forth that on 18-4-2001 when the petitioner was coming back from the clinic of Dr. Ajay Saraf, a paediatrician, after availing treatment of her 31 years old child, who was suffering from allergic bronchitis and viral infection, at about 1 p.m. the respondent No. 4, Traffic Sub-Inspector of Traffic Police Station, Jabalpur, stopped her car and asked her to go in a rickshaw and impounded the vehicle. When the petitioner resisted why the car was being impounding she was ill-treated and later on, was apprised that the vehicle was needed for the purpose

of use in connection with the Congress Party convention which was going to be held at Jabalpur wherein national level leaders including Smt. Sonia Gandhi were to attend. Under the threat and coercion of the respondent No. 4, her sick child and driver were virtually thrown out of the car and she had to take a rickshaw to reach her home. On 19-4-2001 the husband of the petitioner complained the incident to the Police Station, Madan Mahal under whose jurisdiction the particular locality, from where the car was impounded, falls. However, no cogent answers were given by the police and the petitioner insisted to lodge an FIR. It was in the form of a protest and was received by the police station concerned. It has been averred that nothing was given in writing to the petitioner as a consequence of which the husband of the petitioner called upon the Superintendent of Police, Jabalpur, on 23-4-2001 and told him about his grievances. It is set forth that eventually the vehicle was given back to the petitioner on 24-4-2001. After getting back the vehicle it was noticed by the petitioner that it has been put to extremely misuse and there has been a lot of damages to the vehicle. It is urged in the petition that in the garb of administrative arrangement the vehicle of the petitioner was taken away without any provision of law. With the aforesaid factual averments reliefs have been sought for, as have been indicated hereinabove.

An application has been filed by the petitioner for bringing subsequent events on record which need not be stated in detail at this point.

The respondent Nos. 1 to 3 have filed their return denying the allegations made in the petition. Their main stand is that the vehicle in question was running as a taxi without complying with the formalities.

While the matter was listed on 3-5-2001 the personal appearance of the respondent Nos. 3 and 4 was directed. The said officers appeared on 14-5-2001. Mr. R.L. Singh, Traffic Sub-Inspector, Traffic Police Jabalpur, stated that the vehicle of the petitioner was requisitioned by the City Magistrate, Mr. Basant Kurre, for the purpose of WIP duty. Recording the said statement the Magistrate concerned was directed to appear before this Court on 16-5-2001 to explain under what authority he had requisitioned the vehicle of the petitioner. As the matter did not reach on that day, it is taken up today.

I must now go back to the beginning. Mr. V.K. Tankha, learned Advocate General for the State very fairly submitted that whether the vehicle of the petitioner was a private one or it was running as a taxi, the same could not have been impounded or requisitioned by the respondents as there is no law relating to the same. Mr. Tankha, has submitted that the stand taken in the return should be ignored as that justifies the mistake. It was put forth by him that he has already sounded the officers not to take such an action in future, unless there is consent of the vehicle owner. Learned Advocate General has agreed that loss caused to the vehicle of the petitioner shall be assessed and compensation shall be paid.

Mr. Manoj Sharma, learned counsel for the petitioner, in view of the aforesaid

assurance of the learned Advocate General does not intend to harp further about the harassment meted to the petitioner. The learned counsel also very fairly stated that the petitioner would have stood vindicated if the officers concerned would have very fairly stated that the mistake had occurred under a misconception of law, but on the contrary, they tried to justify the action and now that the learned Advocate General has submitted that a mistake was committed by the officer concerned the grievance of the petitioner stands mitigated. Thus, the agony and anguish of the petitioner arc, in way, melted and more so, when the State has expressed its regret. Mr. Sharma has also added and I may say, with all fairness that respondents are protectors of law and if a mistake has occurred an individual may rise to the occasion to forgive such an action and, therefore, the petitioner does not intend to fight with vengeance. In view of this it is directed that the Collector would assess the damages as well as the rental of the vehicle in question within a period of two weeks from the date of receipt of this order.

Another facet of the case which deserves mention that the petitioner's vehicle has been shown to be a taxi and seized on 10-5-2001 on the ground that there has been plying of the vehicle as taxi without having permit. Learned Advocate General for the State assures this Court to look into the matter and it is assured by him that if the same has been done without any justification, the proceeding by the competent authority shall be dropped. If the proceeding is dropped the petitioner shall not take any further action against the authority, as the matter is deemed to have been amicably settled.

It is worth mentioning at this juncture that the officers arc put to difficulty on many an occasion being asked to do a Herculean task to arrange vehicles which are not possible in a small township. Quite apart from the above, no vehicle whether it is a taxi or private car can be taken by application of force without the consent of the owner. I am not adverting to the concept of requisition during election because that is governed by operation of law. Otherwise nothing has been brought before this Court under what law vehicles can be requisitioned. In absence of any law it is expected that the State Government or its officials would not do anything without the consent of the citizen as that would be extremely arbitrary and against the spirit of law. Mr. Tankha, learned Advocate General for the State has submitted that he would intimate the State Government about the concern of this Court and shall advise them to frame suitable guidelines so that, these circumstances can be taken care of without offending the rights of a citizen. It should be borne in mind that citizenary rights cannot be throttled and trammelled in an arbitrary, unjust, illegal and unwarranted manner. One may not conceive of an "Utopian" State but let there be no predatory state. The concept of "Leviathan" be properly understood and proper paradigm be set.

The writ petition is accordingly disposed of without any order as to costs.