

(2001) 02 AP CK 0090

In the Andhra Pradesh High Court

Case No : Writ Petition No. 10834 of 2000

M.V.R. Sharma

APPELLANT

Vs

State of A.P. and others

RESPONDENT

Date of Decision : 08-02-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 2 ALD 572 : (2001) 2 ALT 426

Hon'ble Judges : S.B. Sinha, C.J;S.R. Nayak, J

Bench : Division Bench

Advocate : Mr. Gopala Krishna Kalahidi, for the Appellant; Mr. Ganta Rama Rao, SC for MCH and Government Pleader for GAD, for the Respondent

Judgement

S.B. Sinha, CJ

1. The petitioner herein has filed this writ application, which has been treated as Public Interest Litigation, alleging inter-alia that the respondent No.2 herein has not adopted any norms for collecting the parking fee. According to the petitioner a busy person like him who has to go to several places may have to pay parking fee for parking his vehicle many times a day, which is illegal. According to the petitioner, various persons are collecting the said parking fee without any authority. It has been stated that parking fee in case of two wheelers is charged at the rate of Rs.2/- and in case of four wheelers at Rs.5/-, but no concession has been shown for women and physically handicapped persons, nor any separate rate has been fixed for AC luxury cars like Premier NE 118, Maruti 1000 CC, Esteem Doshi Ford, Opel Astra, Tata Safari, Sumo, Ceilo, New Honda Citi, Fiat Uno etc., which occupy more parking space.

2. It is stated that although lot of money is being collected, which may be to the tune of Rs.20 lakhs per day, it is not accounted for properly.

3. It is really unfortunate that despite the fact that the learned Government Pleader for GAD Mr. Y. Rama Rao, intimated to the learned Standing Counsel for

the 2nd respondent, Mr. Ganta Rama Rao, nobody appears on its behalf nor any counter-affidavit has been filed.

4. A counter-affidavit has been filed on behalf of the 3rd respondent wherein the allegations made by the petitioner have been denied and disputed.

5. It appears that certain parking spaces have been earmarked in the twin cities in relation to which parking fee is being collected. It is not in dispute that Rs.2/- is being charged for two wheelers, Rs.5/- for the four wheelers for the first two hours of parking and thereafter the rates are fixed proportionately for every extra hour and a maximum of Rs.15/- for the entire day towards parking fee in respect of specified earmarked space on the road margins is charged.

6. The question as to how and in what manner the 2nd respondent would generate its revenue is a matter of policy decision and this Court in exercise of its power of judicial review cannot interfere therewith. This Court, in a petition of this nature, cannot also direct the MCH to take a policy decision or frame certain rules for grant of concession to women or physically handicapped persons in relation to charging of parking fee and further directing that the owners of luxury cars will have to pay more parking fee. How the classification should be made for the purpose of levy of parking fee, as indicated hereinbefore, is a matter of policy decision, which cannot be interfered with by this Court unless the same is found to be patently arbitrary. However, there cannot be any doubt whatsoever that the 2nd respondent cannot allow collection of parking fee by the persons who are not authorized therefore. Respondents 2 and 3 are, therefore, directed to see that if any person had been collecting parking fee without any authority therefore, they should initiate requisite legal proceedings against them.

7. It is stated by Mr. M. Rama Rao, learned Government Pleader for Home and Mr. Y. Rama Rao, learned Government Pleader for GAD, that parking space situated in an area is auctioned every year. If that be the position, unless and until some illegality is found therein, there is no scope of passing any order in this writ application.

8. As regards the maintenance of the accounts is concerned, there cannot be any doubt whatsoever that the accounts of all taxes and fee collected have to be maintained in accordance with law. However, if it is found later that despite this order some unauthorised persons are collecting parking fee, it will be open for the petitioner or anybody affected to bring the same to the notice of this Court by a separate writ application.

9. This writ petition is disposed of with the abovementioned directions. No costs.