
(2012) 10 JH CK 0042

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 6141 of 2008

Rajneesh Mishra

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 08-10-2012

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2013) 2 JLJR 418

Hon'ble Judges : Prakash Tatia, J;Jaya Roy, J

Bench : Division Bench

Advocate : Dilip Jairath, for the Appellant; M. Khan, ASGI, Ajit Kumar, A.A.G. Sudhir Sahay, M/s. M.S. Anwar A.K. Pandey, for J.S.P.C.B., Mr. Sangarmay N. Banerjee, Advocate and Mr. Vijay Shankar Prasad, Advocate for the Interveners, for the Respondent

Judgement

1. Learned counsel for the interveners submitted and referred several provisions of law which we have already considered in earlier hearing. However, according to the learned counsel for the interveners there should not be blanket stay order against the issuance of new permit. Learned counsel for the interveners also relied upon a valid affidavit filed by the Union of India wherein it has been clearly stated that the Union of India on material points has not taken any decision.

2. Learned counsel for the petitioner vehemently submitted that it is clear from the report submitted by the committee constituted by this Court on 5th May, 2012 that in the city of Ranchi, which is a capital city, as per the road transport authority only 2300 permits have been issued to the auto rickshaws whereas against these permits, 6000 auto rickshaws are running. It is also submitted that the petitioner is relying upon the judgment of Hon''ble Supreme Court delivered in the case of M.C. Mehta Vs. Union of India reported in AIR (1998) S.C. 186 and also relied upon the orders passed by Division Bench of the Rajasthan High Court in the case of Mahendra Lodha Vs. State of Rajasthan reported in RLW 2007(2) Raj 1428 wherein several orders were passed with respect to regulating the

traffic congestion in the city of Jodhpur, in the State of Rajasthan. In that case of Mahendra Lodha several directions were issued to the State Government and several restrictions were imposed vide order dated 21st November, 2000 and those directions and restrictions were challenged by preferring SLP which was rejected by order dated 9th April, 2001 and the order of the Apex Court is "We are happy to know that at least one High Court is taking trouble of cleaning of the area of the city in which it is situated following the orders of this Court in M.C. Mehta's case, we see no reason to interfere with the directions so issued. The SLP is dismissed."

3. It is also submitted that petitioner's writ petition is seeking directions against respondent to allow the public of the city of Ranchi to live in a dignified way and Hon'ble Supreme Court also issued directions under the Article 21 of the Constitution of India in the case of M.C. Mehta. It is also submitted that after the M.C. Mehta's case, the Hon'ble Supreme Court in the same case issued several directions, and therefore, the matter of public importance cannot be confined to various provisions of the law under the Motor Vehicle Act, 1988 and the Motor Vehicle Rules, 1989. It is a question of life and safety of the persons of a capital city of the State of Jharkhand.

4. Learned Addl. Advocate General, Shri Ajit Singh, drew our attention to the same report dated 5.5.2012 given by the Committee constituted by order of this Court and drew our attention to the recommendations of the Committee.

5. In view of the fact that as per the R.T.A., there are 2300 permits issued to the Auto Rickshaws plying in the city of Ranchi and against this, at that time when the Committee form opinion, there were 6000 auto rickshaws operating in the city of Ranchi. The figures 2300 and 6000 they themselves appears to be too high, but it depends upon the opinion of the experts that how many number of auto rickshaws can be allowed to ply in the city of Ranchi. There cannot be any reason to permit the unauthorized auto rickshaws plying in the city of Ranchi, and therefore, the State is again directed to see that they shall stop all those auto rickshaws which are not having the valid permit to ply.

6. The concerned Committee constituted by the order of this Court dated 17.4.2012, as early as possible will convene the meeting and find the requisite number of the auto rickshaws which can be allowed to be plied in the City of Ranchi.

7. Since presently we do have the fact situation before us so that 2300 auto rickshaws are plying in the City of Ranchi, therefore, at this stage, we are not inclined to relax the condition of non-issuance of the permit to the new auto rickshaws as we have already ordered. However, such prayer may be considered after obtaining the report from the Committee with respect of the need of the auto rickshaw as well as city buses in the city of Ranchi.

8. Learned counsel appearing for the intervener (in I.A. No. 1880 of 2012) has submitted that the applicants' buses are plying inter-city and not intra-city and

for that there is no restriction and in the present case the controversy is of the traffic of city of Ranchi, therefore, the order passed by this Court may be modified to make it clear that the transport authority shall be free to give the permits to the buses which are plying from one city to another city and not within the city of the areas of Ranchi.

9. It is hereby made clear presently the orders have been passed confined to the city of Ranchi only, and therefore, there is no restriction on the grant of the permit to the buses in accordance with the Act of 1988 and the Rules of 1989 for the buses plying between the cities.

10. The Committee may submit report if possible by 30th October, 2012.

11. The counsel for the intervenors (in I.A. Nos. 2122 of 2012 and 1880 of 2012) may also be heard by the Committee.

12. The State may also explore and find out the place for setting up Auto Gas Stations.

13. The copy of the order may be given to the counsel for the petitioner and the counsel for the State of Jharkhand and the counsel appearing for the Union of India. Put up this case on 30th October, 2012.