

(2012) 08 JH CK 0060

In the Jharkhand High Court

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

Rajneesh Misra

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-08-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 59, 74(3)(a), 81

Citation : (2013) 3 EFLT 134

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

Bench : Division Bench

Advocate : Delip Jerath, for the Appellant; M. Khan, Ajit Kumar, AAG, M/s. M.S. Anwar A.K. Pandey and Mr. R.R. Nath, for the Respondent

Judgement

I.A.No. 2380/2012

1. This I.A. has been submitted by the Jharkhand State Diesel Auto Driver Association for being impleaded as party in this petition. This I.A. is allowed and Jharkhand State Diesel Auto Driver Association is impleaded as party. I.A. No. 2380/2012 stands disposed of.

I.A.No. 2122/2012

2. This I.A. has been filed by Jharkhand Pradesh Diesel Auto Chalak Mahasangh, which is a registered Association as registered by the Registrar of Labour Organization Jharkhand with effect from 4.3.2004. By this application, it has been submitted that Government Notification, issued in pursuance of the order of this Court dated 15th May, 2012, has stopped issuance of the permit for the diesel auto-rickshaw from 1st June, 2012, whereas so far as subject of pollution is concerned, that has fully been taken care of by rule 115 of the Central Motor Vehicles Rules, 1989. It is also submitted that in fact, as per the latest research report, diesel run vehicles cause less pollution than petrol run vehicles. It is further submitted that the vehicles, which have obtained the certificate of Bharat-III category, have also stood (sic) the road because of the order referred above.

It is submitted that what should be the age of the vehicle is to be determined by the Central Government as per section 59 of the Motor Vehicles Act, 1988 and how many number of vehicles can be allowed on the road is to be determined u/s 74(3)(a) of the Act of 1988. It is also submitted that so far as number of vehicles are concerned, for that if the State Government takes a decision but on the direction of the Central Government, then the State Transport Authority or the Regional Transport Authority can limit the number of contract carriages generally or of any specified type. It is submitted that therefore, unless a decision is taken by the Central Government, the State could not have issued the order in pursuance of the order of this Court dated 15th May, 2012. It is also clear from section 59 of the Act of 1988 that age of the vehicle is required to be determined by the Central Government and that has also not been done.

3. In view of the above submissions of the learned counsel for the applicant, Union of India is directed to give its own stand.

I.A.No. 1880/2012

4. Learned counsel for the applicant, Devashish Chatterjee @ Chanchal Chatterjee, who is a bus-owner, has moved this LA and submitted that that the State Government has refused to grant permit to the buses, which are running in between the cities and which are not running within the city of Ranchi, for which this order may have been passed.

5. Learned counsel for the State wants to take instructions in this respect. However, prima facie, we are of the considered opinion that the order was never intended for the buses connecting the cities and in this petition, the subject-matter is with respect to pollution control by regulating the traffic in the city of Ranchi. The State Government may look into the matter.

6. Learned counsel for the applicant also submitted that permit can be refused only upon happening of an event as mentioned in section 81 of the Act of 1988.

7. Since presently we are concerned with regulating and monitoring with respect to pollution in the city of Ranchi, which is being created by the vehicles and we want to know the capacity of the city of Ranchi in allowing the number of vehicles and the order dated 15th May, 2012 was passed in view of the recommendation given by the Committee constituted for this purpose.

8. However, appropriate order will be passed after obtaining the views of the Central Government as in the matter, some orders are required to be passed by the Central Government. At this juncture, it will be relevant to mention here that the learned counsel, Mr. Jerath, has pointed out that in Delhi, in famous case of CNG, orders were passed by the Court first and thereafter notification was issued by the Central Government, which were found to be valid from the date of the order.

9. Looking to the fact that larger issue is involved, we would like to know the views of the Union of India first. Therefore, respondent-Union of India may file

their views by or before 29th August, 2012.

10. We are making it clear that so far prayer of the applicants of I.A. Nos. 2122/2012 and 1880/2012 are concerned, appropriate orders will be passed accordingly after considering reply to be filed by the Union of India.

11. Put up this case on 29.8.2012. Copy of this order be given to the counsel for the Union of India, State and petitioner.