
(1974) 09 RAJ CK 0004

In the Rajasthan High Court

Case No : Civil Special Appeals No. 438 and 439

Ram Bux and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 11-09-1974

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 226, 31, 358

Citation : (1974) WLN 687

Hon'ble Judges : B.P. Beri, C.J.; D.P. Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

B.P. Beri, C.J.—By his judgment dated April 22, 1974, Tyagi J dismissed three petitions under Article 226 of the Constitution of India which had challenged the provisions of Section 297-A of the Rajasthan Municipalities Act, 1959 (hereinafter called "the Act") and the Regulations made by the State Government thereunder (hereinafter called "the Regulations") on the ground of their being violative of Articles 19(1)(f)(g) and 14 and 31 of the Constitution of India. Before the teemed single Judge it was conceded by the learned Counsel appearing for the petitioner, who are the appellants before us, that by virtue of Article 358 of the Constitution of India the provisions of Article 19 were put in abeyance and, therefore, the attack was confined before him that some of the regulations were in excess of the powers u/s 297 A of the Act and they were also discriminatory under Article 14 of the Constitution. Aggrieved by the dismissal of their petitions the appellants have come up in appeal before us. Since common questions are involved in both these appeals, they are being disposed of by this common order.

2. Learned Counsel for the appellants submitted that the objects which Section 297-A of the Act was intended to attain, was the preservation of human health or the safety or convenience of the public in public places and streets and the amelioration of rickshaw pullers. That Clause (c) of Sub-section (2) of Section 287 A of the Act was merely illustrative in view of the authorities of AIR 1945 156

(Privy Council) and Santosh Kumar Jain Vs. The State Union Of India (Intervener), His contention was that Section 297A(2)(c) of the Act which provides for the grant of licences to rickshaw pullers only (sic) as inconsistent with the objectives indicated in Section 297A(1) of the Act Regulations 5(6)(J), (8)(e) and (n) of the Regulations were bad because they exceeded the powers conferred by Section 297-A(1). The learned Counsel also submits that the classification between an owner rickshaw puller and mere rickshaw ruler had no reasonable nexus with the objective of Section 297-A of the Act He invited our attention to the statement of objects of the Act by which Section 297-A was inserted to indicate the conditions prevailing on 1-1-1973 and he submitted that these was permissible, according to the authority of Kavalappara Kottarathil Kochuni and Others Vs. The State of Madras and Others,

3 Dr. Tiwari learned Additional Government Advocate supported the order of the learned Single Judge.

4. Two questions emerge for our consideration namely.

(a) Whether Section 297-A (2)(c) of the Act and regulations 5(6),(7), 8 (e) and (ii) are inconsistent with Section 297-A (1) of the Act? &

(b) whether the classification between an owner rickshaw puller and a rickshaw puller simpliciter was unreasonable and hit by Article 14 of the Constitution?

Let us read Section 297-A(1) and Section 297 (2)(c):

297 A (1). Notwithstanding anything contained in Section 297 or any other provision of this Act or any other law for the time being in force, the State Government may, for the purpose of preservation of human health or the safety or convenience of the public in public places and (sic) of the amelioration of rickshaw pullers, by regulations provide for regulating (with a view to gradually abolishing) or prohibition, the plying, use, or drawing of rickshaw in streets and public places and to regulate the hours of work of (sic) pullers.

(2) IN particular and without prejudice to generality of the foregoing power, such regulation may:

.... (c) provide for the grant and renewal of licences of Rickshaws and Rickshaw pullers subject to the condition that a licence of a Rickshaw shall be granted or renewed only in the name of the puller.

....

5. The first point which deserves to be noticed in regard to Section 207-A(1) is that it has an ever riding effect. It authorises the State Govt. to make regulations for the attainment of the following object:

(a) preservation of human health, or safety or convenience of the public, and

(b) the amelioration of Rickshaw pullers by regulating the plying, use or drawing of Rickshaws in streets and public places and to regulate the bouts of work of

rickshaw pullers, with the ultimate object of a phased abolition of the trade of Rickshaw pulling itself.

For the attainment of the object (b) namely, the amelioration of rickshaw pullers conditions all that Clause (c) of Sub-section (2) of Section 297-A of the Act provides is that the State may regulate the grant and renewal of licences of rickshaw pullets subject to the condition that a licence of a rickshaw shall be granted or renewed only in the name of the puller as distinguished from a mere owner and not puller of a rickshaw. Regulation 4 prescribes the test for the eligibility for the grant of a licence to puller of riskshaw. It takes into account inter alia (a) the age of the puller to be between 20 and 60 years; (b) the condition of the applicant's health; (c) his awareness of the topography of the place where he proposes to ply; (d) b a acquaintance with traffic rules & (e) his character. It serves the dual purpose of preserving the human health and convenience of the public as well as of the rickshaw pullers. The regulation clearly prohibits a person o pull a rickshaw if he is over 60 years of age or is suffering from a disease or is not of normal eye sight, because non-fulfilment of these essential conditions is likely to injure the rickshaw pullers, as well as public clause Regulation 3 (6) insists that if an applicant is found eligible for the grant of a licence he shall produce for inspecting his own rickshaw before the licencing authority would issue a licence. Sub-regulation (7) gives him an additional margin of time for the production or rickshaw and Sub-regulation (8) insists on the inspection of the rickshaw had the licencing authority shall ensure that the rickshaw is owned by the rickshaw puller himself & Sub-regulation 5 (ii) says that the application for the rickshaw puling licence shall be rejected if the applicant fails to produce the rickshaw. Could it be said that these conditions are in excess of the powers conferred by Section 297-A(1) of the Act? It will be profitable here to refer to the statement of Objects and Reasons as contained in the Rajatshan Gazette Extra-ordinary Part 3 (ka) dated April 1, 1970 in which it is observed,

The profession or avocation of pulling or drawing of rickshaw is inherently dangerous to human health. Besides the increasing number of rickshaws is also causing serious traffic problems endangering safety and convenience of the public in streets and public places.

It is, therefore, considered necessary in the interest of general public to prohibit the plying and use of rickshaws and to save human beings from being used as beasts of burden.

Most of the rickshaws in the State are owned by persons who are not the pullers thereof. These owners exploit the pullers who are forced by economic necessity, take the rickshaws on hire from them at exorbitant rates. Until the rickshaw pulling is finally prohibited in the State, some provision for the amelioration of the pullers is also considered necessary....

Thus, it would be seen that the two purposes which Section 297A of the Act had in view were, public safety and convenience in crowded streets and ameliorating

the lot of rickshaw pullers. In the process of ameliorating the economic lot of rickshaw pullers insistence on the licensee owning his rickshaw is a clear endeavour to eliminate the middle man who fattens himself at the cost of the puller's toil and sweat. We are clearly of the opinion that the insistence on the production of rickshaw owned by the pull (sic) firm and concrete step towards ameliorating the conditions in which the rickshaw pullers have been found, according to the Statements & Objects to be operating in the State. Economic inferiority ordinarily exposes poor rickshaw pullers to their exploitation by people who can invest at the expense of the rickshaw puller's health and pocket. One cannot think of a greater amelioration than creating conditions in which the fruits of his labour reach the puller alone rather than some one else. Devising a scheme whereby poor rickshaws pullers can own their own rickshaws on easy hire purchase terms in course of time, by the State has added a realistic content to the object of amelioration as envisaged by Section 297A of the Act. In our opinion the learned single Judge was perfectly right in holding that Section 297-A(2)(c) and the regulations were compatible with the objects of Section 297-A(1) of the Act.

6. The next question is regarding the classification between the owner rickshaw pullets and rickshaw pullers simpliciter. In order that classification is reasonable it must have a nexus with the object intended to be achieved. In our opinion, the classification between a self employed rickshaw puller who owns his rickshaw and a rickshaw puller who plies a rickshaw owned by some one else is easy to appreciate. A self employed rickshaw puller carries the load of passengers only while the rickshaw puller who paddles the hired rickshaw, carries the additional economic load of the owner besides that of the passengers and continually groans under this additional weight. A rickshaw puller who owns his own rickshaw has not to carry the additional economic load and his condition is thereby ameliorated. Even a riskshaw puller who owns a rickshaw on hire-purchase has not that much of load to carry as a rickshaw puller who operates a rickshaw owned by some one else even if we may ignore for the time being the recompensing prospect of his becoming owner some day. In our opinion, such a classification is convincingly and clearly co-related to the object of eradication of economic exploitation of the poor rickshaw pullers and thereby ameliorates their conditions which is the vowed object of Section 297-A of the Act. The differential being intelligible and related to the object is reasonable and is not hit by Article 14 of the Constitution. We are in agreement with the learned single Judge on this score as well.

7. With these observations, we dismiss these appeals in limine.