
(2009) 04 MP CK 0066
In the Madhya Pradesh High Court

Ramlal Mishra

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 08-04-2009

Acts Referred:

Constitution of India, 1950 — Article 19, 226, 227
Motor Vehicles Act, 1988 — Section 111, 74, 87

Citation : AIR 2009 MP 236

Hon'ble Judges : Sanjay Yadav, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sanjay Yadav, J.—The petitioner in this writ petition filed under Article 226/227 of the Constitution of India calls in question the inaction of the respondent in renewing the temporary permit for transportation of passengers, which is because of the order dated 10-2-2006 by Transport Commissioner that the Maxi-Cabs having soft tops will not be granted such permit.

2. The petitioner, owner of passenger Vehicles-Maxi Cabs, operates on the basis of temporary permits issued by the concerned authorities u/s 87(1) of the Motor Vehicles Act, 1988 read with Rules 73(1)(d) of the Madhya Pradesh Motors Vehicle Rules, 1994. On 10-2-2006, the Transport Commissioner, respondent No. 2 issued an order prohibiting the grant/renewal of temporary permits to all such Maxi-Cabs having soft top. This order was purportedly in exercise of the powers under Rule 170 of the Rules of 1994 and with an object to provide security to the passengers travelling in such vehicles and in consonance to the Resolution No. 88/94 dated 28-12-1994, which laid down conditions for grant of permits to Jeep Taxi Model.

3. Challenging the order dated 10-2-2006, it is contended by the learned Counsel for the petitioner that the same is in contravention to the stipulations contained in Resolution 88/94 dated 28-1-1994, wherein, a diesel driven cab with a body made of Steel/Fiber Glass or Canvas was conditioned to be fit for grant of permit.

It is contended that the soft top is a company fitted body, and therefore, the prohibitions for grant/renewal of licence is arbitrary and violates the right guaranteed under Article 19(1)(g) of the Constitution of India.

4. The respondents on their turn however, supports their action mainly on the count that it is within the power of the Transport Commissioner to lay down the condition for the public service vehicle to have a hard top, which, it is urged, is in larger public interest and safety. It is contended that such action is not only in consonance to the provisions contained in Rule 170 of the Rules of 1994, but it also satisfies the parameters laid down in Resolution No. 88/94 dated 28-12-1994.

5. Considered the rival submissions.

6. Section 111 of the Motor Vehicles Act, 1988 empowers the State Government to make rules regulating the construction, equipment and maintenance of Motor Vehicles.

7. Rule 170 of the Rules 1994 stipulates that: "The body of every public service vehicle shall be constructed and fastened to the frame of the vehicle in compliance with such directions as may from time to time be issued by the State Transport Authority".

8. Furthermore Section 74 of the Act of 1988 makes a provision for grant of contract carriage permit. Sub-section (2) of Section 74 stipulates.

2. The Regional Transport Authority, if it decides to grant a contract carriage permit, may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely:

(i) That the vehicles shall be used only in a specified area or on a specified route or routes;

(ii) that except in accordance with specified conditions, no contract of hiring, other than an extension or modification of a subsisting contract, may be entered into outside the specified area;

(iii) the maximum number of passengers and the maximum weight of luggage that may be carried on the vehicles, either generally or on specified occasions or at specified times and seasons;

(iv) the conditions subject to which goods may be carried in any contract carriage in addition to, or to the exclusion of, passengers;

(v) that, in the case of motorcabs, specified fares or rates of fares shall be charged and a copy of the fare table shall be exhibited on the vehicle;

(vi) that, in the case of vehicles other than motorcabs, specified rates of hiring not exceeding specified maximum shall be charged.

(vii) that in the case of motorcabs, a specified weight of passengers' luggage

shall be carried free of charge, and that the charge, if any, for any luggage in excess thereof shall be at a specified rate;

(viii) that, in the case of motorcabs, a taximeter shall be fitted and maintained in proper working order, if prescribed;

(ix) that the Regional Transport Authority may, after giving notice of not less than one month,--

(a) vary the conditions of the permit;

(b) attach to the permit further conditions;

(x) that the conditions of permit shall not be departed from save with the approval of the Regional Transport Authority.

(xi) that specified standards of comfort and cleanliness shall be maintained in the vehicles;

(xii) that, except in the circumstances of exceptional nature, the plying of the vehicle or carrying of the passengers shall not be refused;

(xiii) any other conditions which may be prescribed.

9. The Transport Commissioner in order to have uniformity in the action of Regional transport Authority has laid down conditions vide Resolution No. 88/94 dated 28-12-1994 and the relevant conditions regarding body of public service vehicle is, stipulated, as contained in Clause 3(1):

(Vernacular matter omitted.)

10. The petitioner has laid emphasis on Clause 1(k) to bring home his submissions that a soft top is permissible. A close look at the said clause however, reflects a fact that, the permissibility is to the public service vehicle which has the body which can be of canvas also, however, the resolution nowhere provides that soft top is permissible. Furthermore, it is observed that Rule 170 empowers a State Transport Authority to issue directions and the directions which are issued vide impugned order (may be the same is an outcome of the meeting of bus operator with the concerning Transport Minister) is keeping in view the public safety. No illegality or an arbitrariness is perceived in the disposition of the State Transport Authority.

11. In result petition fails and hereby dismissed. However no costs.