

(1958) 03 AHC CK 0009

In the Allahabad High Court

Case No : Civil Misc. Application No. 281 of 1957

Sardar Iqbal Singh and Others

APPELLANT

Vs

The Municipal Board, Lucknow

RESPONDENT

Date of Decision : 26-03-1958

Acts Referred:

Constitution of India, 1950 — Article 19, 19(1), 19(6), 226
Uttar Pradesh Municipalities Act, 1916 — Section 298(1), 298(2), 301

Citation : AIR 1959 All 186

Hon'ble Judges : O.H. Mootham, C.J; R.N. Gurtu, J

Bench : Division Bench

Advocate : B.K. Dhaon, for the Appellant; Iqbal Ahmad and B.L. Kaul, for the Respondent

Final Decision : Partly Allowed

Judgement

O.H. Mootham, C.J.—This is a petition under Article 226 of the Constitution. The petitioners, who are five in number own between them a considerable number of rickshaws which they want to ply for hire within the limits of the Lucknow Municipality. Under the relevant bye-laws, however, no person may ply a rickshaw within those limits without first obtaining a license from the Municipal Board, and it is the petitioners' complaint that the Board has refused, without adequate or indeed any justification, to grant them the requisite licences, and that they are therefore unable to ply their rickshaws and are accordingly put to great loss. The Municipal Board, it may be observed, was superseded in the year 1948, and at all material times its affairs have been administered by an Administrator.

2. There have been a series of disputes between the Board and rickshaw-owners which go back to the year 1951, and it would, I think, be unnecessary for the purposes of this petition to refer to these disputes were it not for the fact that learned Counsel for the Board has contended that the petitioners have not come to this Court with clean hands and that they are not therefore entitled to relief.

Difficulties first arose at the end of 1950 when the State Government introduced a State bus service in Lucknow.

The fares charged on the routes served by these buses were considerably lower than those charged by alternative forms of conveyance; as a consequence there was unemployment among tonga-wallas and rickshaw-pullers and drivers and a demand was made that no new licences should be issued in respect of either tongas or rickshaws as any further increase in the number of licensees would only worsen the unemployment situation, On 17-1-1951, the registration number of rickshaw licences issued by the Municipal Board had reached 3152, and a decision was then taken by the Board that no fresh rickshaw licences should be issued after the registration number had reached 3250, or after 31-1-1951.

It was not the practice of the Board when issuing licences to repeat the number of the licence already issued, and I am informed that although on 17-1-1951, the last licence issued was numbered 3152 the number of rickshaws actually in possession of municipal licences was in the neighbourhood of 2400, The effect of the decision of that date was therefore to increase the maximum to about 2500.

3. As a consequence of this order it seems that no licenses were issued after 31-1-1951, and by 1953 a large number of applications for licences which had been made after that date were pending and the applicants were pressing for the issue of licences to them. In September 1953, there was a change in policy, the Board directing that additional licences be issued provided the total number of rickshaws on the road did not exceed 3250. In 1955-56 a large number of rickshaws were found plying within municipal limits which bore licence numbers purporting to have been issued by the Lucknow District Board.

That Board had not in fact issued licences in respect of these rickshaws and the Municipal Board took steps to stop them plying within municipal limits. Representations were then made to the Board by the District Board Rickshaw Owners Association as a consequence of which the question of the licensing of rickshaws by the Municipal Board was again reconsidered and it was decided in January, 1957, inter alia, that with effect from 1st April, of that year not more than five licences should be issued to the same person, and that if by limiting the number of rickshaw licences issued to a single individual the total number of licences was reduced, then licences would be issued to the fresh applicants provided that the maximum figure of 3250 was not exceeded.

As a consequence of this decision some 1500 new applications for licences in respect of over 7000 rickshaws were made to the Board. The Municipal Board was of the view that a large number of these applications were made by persons who already held licences for plying rickshaws within the municipal limits or were made by benamidars on behalf of such persons, and a decision was, it appears, taken to postpone consideration of the majority of these applications but in the meantime, in order to avoid a number of rickshaw-owners being thrown out of employment, to issue licences to those persons who had previously been plying

rickshaws within the municipal limits under what purported to be licences issued by the District Board of Lucknow.

The petitioners were included among those persons who after 17-1-1957, had applied for licences and finding that a consideration of their application was likely to take some time three of them, petitioners Nos. 2, 3 and 4, applied to and obtained from the Gaon Sabha of Roop Pur Khadra licences to ply rickshaws, and it is said that these rickshaws plied within the municipal limits. These licences were subsequently cancelled whereupon these petitioners obtained similar licences from Gaon Sabha Sikanderpur Nazul which they still hold.

Certain of these rickshaws had been seized by the Municipal Board and detained for varying periods of time for having been found plying within municipal limits without having licences. On 23-12-1957, the petitioners filed a petition in this Court. They contended that as they were prepared to comply with the requirements of the bye-laws and were willing to pay the requisite licence-fees, the Municipal Board had no right in law to withhold the licences; and the relief sought Was the issue of a writ of mandamus requiring the Board, first, to consider their applications and to issue licences in all cases in which the requirements of the bye-laws were satisfied, and, secondly, to release the rickshaws which had been detained by the Board without the levy of any fee.

Four days after the petition had been filed a fresh set of bye-laws for the regulation and control of rickshaws kept for plying for hire or for private use within the municipal limits were published. These bye-laws, which are now in force, are more elaborate than those which they have superseded and they include in particular three new bye-laws, 9, 12, and 15 (a) which read as follows :

"9. The Board reserves to itself the right to impose such restriction from time to time on the number of rickshaws to be licensed for (1) plying for hire, and (2) for private use, respectively, as might be necessary to ensure the general interests of the public including gradual elimination of the use of human labour for transporting human beings and avoiding congestion on the roads. The Board also reserves to itself the right to impose from time to time such restrictions on the number of rickshaw licences to be issued to any one individual rickshaw owner as may be necessary to ensure the general interests of the public at large including elimination of exploitation of human labour for transporting human beings as an organized trade or commerce and the elimination of monopolistic tendencies.

12. (a) If the rickshaw is found on the road with an un-licensed driver or coolie or the rickshaw itself be unlicensed and the police officer or the Executive Officer is not satisfied about the correctness of the name and address given by the person in charge of the same, the officer concerned may order the rickshaw to be taken to the Municipal Office and the rickshaw may be detained and kept at such suitable place or places as may from time to time be fixed by the Executive Officer, till such time as the name and address of the person concerned is satisfactorily ascertained for the purposes of a prosecution under these bye-laws,

(b) The rickshaw shall not be returned unless the full Detection Fee is paid up.

15(a). A fee of rupee one per day to be called Detention Fee shall be charged by the Executive Officer for the period during which the rickshaw is detained in the custody of the Executive Officer under by-laws 12 and 14."

4. On 11-1-1958, the Board made two orders, Nos. 828 and 829 in the following terms :

"No. 828. In exercise of the powers of the Board under bye-law No. 9 of the bye-laws published in the U. P. Gazette dated 4-1-1958 (Pausa 14, 1879 Saka Era) through notification No. 403 XXXII-10 (1) (1)-56-57 dated 27-12-1957, the Municipal Board, Lucknow, with a view to ensure the general interests of the public including gradual elimination of the use of human labour for transporting human being and avoiding congestion on the roads, hereby imposes the restriction that the number of rickshaws to be licensed under the said bye-laws for plying for hire within the limits of the Municipality of Lucknow shall not exceed 3250 for the time being.

No. 829. In exercise of the powers of the Board under bye-law No. 9 of the bye-laws published in the U. P. Gazette dated 4-1-1958 (Pausa 14, 1879 Saka Era) through notification No. 408 XXXII-10(1)(1)-56-57, dated 27-12-1957, the Municipal Board, Lucknow with a view to ensure the general interests of the public at large, including elimination of exploitation of human labour for transporting human beings as an organised trade and the elimination of monopolistic tendencies hereby imposes the restriction that the number of rickshaw licences to be issued to any one individual rickshaw owner under the said bye-laws for plying for hire within the limits of this Municipality shall not exceed five."

5. As a consequence of the coming into force of the new bye-laws and of the orders of 11-1-1958, the petitioners applied for and obtained leave to amend their petition. They attack the validity of the new bye-laws, and their prayer is that a writ of mandamus be issued directing the respondent Board.

"1. to issue the licence applied for the plying of the rickshaws within Municipal limits of Lucknow to the petitioners;

2. to refrain from impounding the rickshaws belonging to the petitioners found plying, within the Municipal limits on hire."

6. Six contentions have been advanced on behalf of the petitioners. They are, first, that the Board cannot lawfully impose a limit on the number of rickshaw licences which it shall issue. Secondly, that the order No. 828 made by the Board on 11-1-1958, purporting to fix the maximum number of rickshaws which may ply for hire at 3250 is invalid. Thirdly, that if a limit is permissible, then the limit which has been fixed, namely 3,250, is unreasonable and constitutes an infringement of the right of the petitioners to carry on the business of rickshaw owners guaranteed to them by Article 19(1)(g) of the Constitution.

Fourthly, it is contended that the Executive Officer, or his delegate, who are empowered under the bye-law to grant licences, are vested with an unfettered discretion in the exercise of those powers which renders the bye-laws invalid. Fifthly, that the Board has, in issuing licences discriminated against the petitioners, and, finally, that the Board has power neither to detain unlicensed rickshaws nor to levy any fee in respect thereof.

7. I propose to consider the submissions in that order. In my opinion, the Municipal Board has the power to impose a limit on the number of rickshaws plying for hire within municipal limits. Section 298 (1) of the U. P. Municipalities Act, 1916, empowers the Board to make bye-laws for the purpose of promoting or maintaining the "health, safety and convenience of the inhabitants of the municipality and for the furtherance of municipal administration" under that Act: and in particular the Board is given power under Clause (b) of Part H of List I appended to that section to regulate or prohibit traffic of any description in the streets, where such regulation or prohibition appears to the Board to be necessary.

Some degree of regulation of traffic in the streets of a busy city is obviously necessary for the safety and convenience of the inhabitants, and I think that the Board has undoubted power to place, if necessary, a restriction on the number of vehicles of any particular type which may ply for hire. But as any restriction on the number of rickshaws plying for hire is likely to interfere with the rights of those citizens whose business it is to ply rickshaws to carry on their occupation the "restriction must be one which is reasonable in the public interest; and it is contended that the action of the Board in limiting the number of rickshaws entitled to ply for hire to 3,250 is an unreasonable restriction. Before however considering this question it is convenient to consider the argument that the Board's order of 11-1-1958, by which it fixed the number at that figure, is invalid.

8. Now, the Board has no power to restrict the number of rickshaws plying for hire within municipal limits except under the authority of a bye-law. The only relevant bye-law is No. 9 which I have already quoted; and I confess that I find it difficult to attach any precise meaning to it, If the Board has the power (as I hold it has) to impose a restriction on the number of rickshaws which may be licensed, then it is unnecessary, and meaningless, for it to "reserve" this right to itself. If of course the Board has no such power then the bye-law itself is useless. And in my opinion it make's no difference if bye-law No. 9 is construed affirmatively as meaning that the Board may from time to time impose a restriction on, the number of rickshaws to be licensed.

It either has that power, or it has not. The bye-law can confer on it no additional power. The position, I think, is this : the Board can make a bye-law limiting the number of rickshaws entitled to ply for hire within municipal limits, provided that that restriction is one which is reasonable in the public interest. It has placed a restriction on the number of rickshaws which may be licensed by an order which

purports to be made in exercise of the powers conferred by bye-law No. 9. That bye-law (in my opinion) confers no powers upon the Board which it did not already possess, and therefore the power which it possessed is one which can be exercised only through an appropriate bye-law.

The impugned order of 11-1-1958, is not a bye-law, and as it is not, it is in my opinion invalid, It appears to me that bye-Haw No. 9 is an unsuccessful attempt by the Board to empower itself to make a bye-law without complying with the formalities which must be observed u/s 301 of the Act. It is indeed conceded by learned Counsel for the Board that the object of bye-law No. 9 is to enable the Board to fix, and thereafter to alter, the maximum number of rickshaws entitled to ply for hire without the Board having to follow the procedure which it would necessarily have to observe if it sought to amend its bye-laws; and this, in my opinion, it cannot do.

Sir Iqbal Ahmad on behalf of the respondent Board has invited my attention to the case of Satya Ranjan Roy and Others Vs. Commr. of Police, Calcutta and Others, a case in which the Court upheld the refusal of the Corporation of Calcutta to issue licences in respect of rickshaws plying for hire in Calcutta in excess of the number of 6000. It appears that u/s 71 of the Calcutta Hackney Carriage Act, 1919, the Provincial Government was empowered to make bye-laws for carrying out the provisions and intentions of the Act, and that by bye-law No. 13-A it was provided that the registering authority which appears to have been the Corporation of Calcutta shall not register any rickshaw intended to be used in Calcutta if that authority considers that there is already an adequate number of rickshaws on the roads.

The Court upheld the validity of bye-law 13-A, but the point which I have now to consider does not appear to have been raised and I have not been able to examine the Calcutta Hackney Carriage Act, in the circumstances this case is not of assistance. For the reasons which I have stated I have come to the conclusion that the Board, although it has power to restrict the number of rickshaws which may ply for hire within municipal limits, has not in law done so. For similar reasons" I hold also that the Second Order, No. 829, is in Valid.

9. If then the Municipal Board has not fixed a maximum, to what relief (if any) are the petitioners entitled? The petitioners have a right to carry on their business, but it is not in dispute that a system of licensing that has for its object the regulation of that business is legitimate, and the conditions imposed thereby subject to which the business cart be carried, if reasonable in public interest, will be valid. Now in the present case no objection can be taken by the petitioners to the conditions laid down in the bye-laws regulating the granting of licences; and their case is that they are prepared to comply with them and they claim that they are accordingly entitled to be given licences.

I think they are right. On behalf of the Municipal Board it is contended that the grant of a licence is a matter in the discretion or the Board and that even if the

petitioners comply with the conditions they cannot claim a licence as of right, and reliance is placed on the case of Veerappa Pillai Vs. Raman and Raman Ltd. and Others, In that case the/ Court was concerned with the issue of permits under the Motor Vehicles Act, and at p. 196 it is stated that:

"No one is entitled to a: permit as of right even if he satisfies all the prescribed conditions. The grant of a permit is entirely within the discretion of the transport authorities and naturally depends on several circumstances which have to be taken into account".

In that case it seems clear however that the validity of the Motor Vehicles Act was not considered at all with reference to Article 19(1)(g) of the Constitution, and I therefore do not think that Veerappa Pillai Vs. Raman and Raman Ltd. and Others, is authority for the proposition now advanced on behalf of the Board.

I am of opinion that under the Constitution the petitioners are prima facie entitled to the grant of licences, and, as. pointed out by the Madras High Court in C.S.S. Motor Service, Tenkasi and Others Vs. The State of Madras and Another, and by this Court in Rameshwar Prasad Kedarnath Vs. The District Magistrate and Others, the granting of a licence cannot be appropriately regarded merely as a privilege. Moreover, I can find nothing in the bye-laws which confers any power on the Board to refuse to grant a licence when applied for the first time, (1) refer to applications made "for the first time" because of bye-law 2 (d) which empowers the executive Officer to reject an application for a licence in respect of a rickshaw licensed for the previous financial year which is not made within a prescribed period. That bye-law has however no application in the present case as it is common ground that none of the petitioners has held a licence in the previous financial year.)

10. Bye-law 2(a) provides that no person shall ply for hire, either himself or through the agency of any driver or coolie, any rickshaw within the municipal limits, except under a licence granted by the Executive Officer for the current financial year. Bye-law 2(f) provides that all rickshaws shall be inspected by the executive Officer before any licence is granted in respect of them; and 2(g) provides that:

"(g) No rickshaw licence shall be granted for a rickshaw unless :

(i) it is in good and neat condition,

(ii) it is strong and fit for use on the road,

(iii) it is equipped with two back reflectors of red colour of suitable size, one on either side of it,

(iv) it is equipped with one light in front,

(v) it is fitted with good brakes,

(vi) it is fitted with a warning-bell or a kirkira,

(vii) it has, in the case of a rickshaw for hire, a tariff plate containing the latest tariff rates prominently exhibited on it,

(viii) the rickshaw tax, imposed u/s 128 (i) (iv) of the Municipal Act, which may have become payable or which may have fallen due to gather with arrears thereof, if any, in respect of the rickshaw in question have been paid up in full;

Provided that if a licence is refused on any of the grounds noted above, the reason or reasons on account of which it is refused shall be noted down by the Executive Officer on the application for the licence and intimation of the rejection of the application shall be given to the applicant."

Bye-law No. 3 deal's with the grant of licences to drivers or coolies, and bye-law 3(g) provides that

"No driver's or coolies licence under this bye-law shall be granted to any person who is below 18 years of age or whose eye-sight is defective or who is otherwise unfit for hard labour by reason of bad health."

Bye-law No. 4 reads thus :

"All licences under these bye-laws shall be granted only for the period ending March, 31 next. The licencees shall be bound to apply for a new licence every year but the Executive Officer may refuse in accordance with these bye-laws to grant any such new licences. Fees as prescribed in bye-laws 2(h) and 3(b) shall be payable every year, before a new licence is issued."

11. It will be observed that a licence may only be refused "in accordance with these bye-laws." Bye-law No, 5 empowers the Executive Officer to fix and change carriage rates for hire, and bye-law 7 gives the Executive Officer power to suspend or cancel a licence for breach of any of the provisions of the bye-laws. Bye-law no. 8 makes provision for appeals, and provides that

"Any person aggrieved by an order of the Executive Officer refusing to grant a licence under bye-laws 2(g) or 3(g) or by an order suspending or cancelling a licence under bye-law 7, may appeal to the Board within ten days of such order of refusal, suspension or cancellation, and the order of the Board on such appeal shall be final."

12. Bye-law No. 9 I have already quoted. Bye-law No. 10 provides that any person aggrieved by an order made by the Board under bye-law 9 may make a representation to the Board that it should review and reconsider the order made by it under bye-law No. 9. Bye-law No. 16 provides that:

"(a) In addition to the specific provisions of these bye-laws the Executive Officer shall have power to pass any order or give any direction which he considers necessary for the proper working of these bye-laws, to any person who is the owner or driver or coolie of a rickshaw or who is for the time being in possession of or in charge of a rickshaw.

(b) The Executive Officer may delegate any of his powers and duties under these bye-laws with the approval of the President of the Board, to any employee of the Board,"

13. My attention has not been drawn to any other bye-law which has any relation to the grant of licences. I am unable to find in these bye-laws any authority which vests the Executive Officer with power to refuse to grant a licence if the applicant complies with the bye-laws. It does not appear that he is vested with any discretion in the matter. It is to be observed that bye-law No. 8 provides for an appeal to the Board from an order of the Executive Officer refusing to grant a licence under bye-law 2(g) or 3(g).

These bye-laws I have, quoted. The absence of a right of appeal from an order refusing to grant a licence on any other ground supports, I think, the view that the Executive Officer lacks the power to red use the grant of a licence except for a failure to comply with the provisions of bye-laws 2(g) or 3(g). The conclusion I reach, therefore, is that the petitioners are entitled to obtain licences provided they pay the prescribed fee and comply with the conditions laid down in the bye-laws.

14. In view of this conclusion the third and fourth questions do not arise, but as they have been fully argued before me I think it proper, in deference to learned Counsel, to state shortly my opinion thereon.

15. The petitioners have failed to satisfy me that a limitation of the number of rickshaws entitled to ply for hire in Lucknow to 3,250 will be an unreasonable restriction. The considerations which guided the Board in fixing this number, as stated in its order of 11-1-1958, were "the general interest of the public, including the gradual elimination of the use of human labour for transporting human beings and avoiding congestion on the roads." The restriction was, in my opinion, imposed in the interest of the general public within the meaning of Article 19(6) of the Constitution.

The determination of the actual number of rickshaws which shall be entitled to ply for hire is a matter for the Board, and unless it is clear that in fixing the number it has taken into account matters with which it has no concern or has acted in bad faith, I do not think that its decision can be questioned. In my opinion the Boards' decision cannot successfully be challenged on the first of these grounds, and it is not suggested that in arriving at its decision on this point the Board was acting in bad faith.

16. The fourth submission made on behalf of the petitioners assumes that the Board has validity fixed the maximum number of rickshaws entitled to ply for hire at 3,250. The argument is that as at any one time the number of applications for licences will be more than the number of licences which can be issued without exceeding the maximum (and the probability of this being the case is admitted) there will necessarily have to be some process of selection among the applicants; and that as the bye-laws vest the Executive Officer or his

delegate with an unfettered discretion they are invalid.

Now I have already referred to the relevant bye-laws, and I have pointed out that (in my view) they invest the Executive Officer with no discretion. In fact, once a maximum is fixed, a selection among the applicants will have to be made, and this again is not disputed. The bye-laws however do not provide for this contingency at all. They give no indication as to the principles which should guide the Executive Officer in making a choice among the applicants; they do not even accord any priority to the holders of licences during the preceding financial year.

The truth is, I think, that the imposition of a maximum gives rise to a number of problems to which the Board has given no consideration and for which accordingly there is no provision to be found in the bye-laws. As the Supreme Court stated in *Pannalal Binjraj Vs. Union of India* (UOI),

"There is a broad distinction between discretion which has to be exercised with regard a fundamental right guaranteed by the Constitution and some other right which is given by the Statute. If the statute deals with a right which is not fundamental in character the statute can take it away but a fundamental right the statute cannot take away. Where for example, a discretion is given in the matter of issuing licences for carrying on a trade, profession or business the discretion must be controlled by clear rules so as to come within the category of reasonable restrictions."

As I have endeavoured to show, there are no rules at all in the existing bye-laws controlling the manner in which the discretion which the Executive Officer will necessarily have to exercise is to be used; and on the assumption that the maximum number of rickshaws entitled to ply for hire has been determined I would be disposed to hold that the bye-laws are invalid.

17. I think there is no force in the petitioner's contention that the Board, in issuing licences, has discriminated against the petitioners. The allegation, which is to be found in paragraph 16 of the affidavit of Sardar Iqbal Singh sworn on 10-2-1958, is that after the filing of the petition the respondent Board issued nine licences "in the name of certain fake Persons on 4-1-1958 which has brought the number of licences issued by the Board to the figure of 3,250." By this I understand the petitioners to allege that nine licences have been issued in the names of fictitious persons. In paragraph 18(a) of the counter-affidavit sworn by Sri Hari Shanker Sharma the names of the persons to whom the nine licences were issued are stated and I see no reason why that statement should not be accepted as correct.

18. The petitioners further contended that bye-laws 12 and 15 (a) are invalid on the ground that they are in excess of the Board's powers. These bye-laws I have quoted. The former empowers a police officer or the Executive Officer to impound a rickshaw which is unlicensed or is being driven by an unlicensed driver if the officer is "not satisfied" with regard to the "name and address given" by the person in charge of the rickshaw; and bye-law 15 (a) provides that a detention

fee of Re. 1/- a day shall be paid in respect of all rickshaws so impounded.

It is to be observed that bye-law 12 does not make it clear whether the name and address which are to be given are those of the owner or of the driver, and that the bye-law does not require the non-satisfaction of the detaining officer to be based on reasonable grounds. Both bye-laws are defended on the ground that they are necessary for and incidental to the discharge of the Board's duty, in no other way, it is urged, can the Board enforce compliance with its bye-laws.

I entertain doubt whether bye-law 12 in its present wide form or bye-law 15(a) can be justified, but I have in the present case to consider them only in relation to the petitioners. Now the petitioners prayer is that their rickshaws "found plying within municipal limits on hire" may not in future be impounded. The provision in the, bye-laws requiring all rickshaws which ply for hire to be licenced is in my opinion valid; and I am further of opinion that (as the bye-laws now stand) the petitioners are entitled to obtain licences if they comply with the prescribed conditions.

If hereafter they obtain licences it is very, unlikely that their rickshaws will be impounded; if they ply unlicensed rickshaws within municipal limits they will be contravening the provisions of the bye-laws and this Court will in such circumstances be unlikely to exercise its discretion under Article 226 of the Constitution in their favour. I am in fact being asked to consider a situation which may or may not arise in circumstances which will vary from one case to another, I do not think that the petitioners are now entitled to the second of the two reliefs which they seek.

19. Finally it is necessary to consider the submission made on behalf of the respondent Board that the petitioners have not come to Court with clean hands and are therefore disentitled to relief. The allegation is that after the decision was taken by the Board in January, 1957, to grant a certain number of licences to rickshaws which had previously been plying for hire on the strength of licences which purported to have been granted by the District Board of Lucknow, the petitioners sought to secure similar preferential treatment for themselves by getting their rickshaws licensed by neighbouring Gaon Sabhas and then plying them in Lucknow.

It is not clear whether all the petitioners succeeded in obtaining licences from the Gaon Sabhas but there is no doubt that three of them did. The reply of the petitioners is that they were forced to act as they did owing to the illegal refusal of the Board to grant licences to them. I have some difficulty in dealing with this part of the case owing to the somewhat vague nature of the allegations made by the Board. There has no doubt been a good deal of litigation between the Board and one or more of the petitioners and feeling between the parties runs strongly.

The petitioners were however entitled to go to the Court for relief if they were so advised, and in my view they were at all material times entitled to obtain licences from the Board on fulfilling the conditions laid down in the bye-laws. The

real question at issue in this case is the validity of the new bye-laws which only came into force on the 27th December 1957, and it is in the interest of both parties that the meaning and effect of those bye-laws should be settled. On the material before me I am not prepared to hold that the petitioners" are debarred by their conduct from seeking relief in this Court.

20. In the result, therefore, I allow this petition to this extent that a writ will issue commanding the respondent Board to issue licences to the petitioners to ply rickshaws for hire within municipal limits provided the petitioners fulfill the requirements laid down in the relevant bye-laws.

21. As the petitioners have partly succeeded and partly failed, there will be no order as to costs.

22. Judgment pronounced by Gurtu J. in open court under Chapter VII Rule (1) Sub-rule III of the rules of the Court.