

(2001) 08 JH CK 0034

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3897 of 2001

Shiv Kumar Singh and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 24-08-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 207

Citation : (2001) 08 JH CK 0034

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Rajiv Ranjan, for the Appellant; B. Poddar, AAG and Nisha Thakur, J.C., for the Respondent

Judgement

S.J. Mukhopadhaya, J.—This application has been preferred by petitioners against the order dated 16.8.2001 so far it relates to penal order for payment of Rs. 20,000/- as "Swayam Prayaschit".

2. The brief fact of the case shows that motor vehicles, buses of the petitioners were confiscated by the Enforcement Sub- Inspector, Transport, Ranchi against which the petitioners moved before this Court in W.P. (C) No. 3569/2001. It was pointed out that the buses were lying with the officer-in-charge and prayer was made to release the same, order having passed by the competent authority u/s 207 of the Motor Vehicles Act, 1988. It was submitted that the petitioners had complied with the order by depositing the fine of Rs. 5000/- as was imposed on petitioners by the concerned respondents of the said case. This Court vide order dated 8.8.2001 remitted the matter with direction to Transport Commissioner. Government of Jharkhand to take into consideration the order passed by the competent authority u/s 207 of the Act. 1988 and to take appropriate steps within a week from the date of receipt of a copy of this order.

3. The Transport Commissioner, Jharkhand, Ranchi thereafter passed impugned order on 16.8.2001 wherein it was ordered to release the truck on receipt of undertaking that the owner will not ply buses without any proper permit in future

and imposed some sort of penalty by way of penal order for Rs. 2000/- as self atonement (Swayam Prayaschit).

4. Mr. Poddar, learned A.A.G while could not lay hand of any rule/guideline to suggest that the Transport Commissioner had jurisdiction to impose penalty by way of self atonement (Swayam Prayaschit), submitted that many of the bus owners are plying buses in the newly created State of Jharkhand without proper permit and payment of transport tax. It was submitted that with a view to collect the rightful revenue and to give some message to the bus owners, who are plying without proper permit and payment of tax, the impugned order was passed.

5. Admittedly, the Transport Commissioner had no jurisdiction to impose some sort of penalty by way of self atonement (Swayam Prayaschit) and thereby Clause (1) of para 6 of the impugned order dated 16.8.2001 cannot be upheld, though it is open for the competent authority/legislature to make appropriate amendment in the rule enhancing the penalty and/or inserting some provisions to protect the interest of the state.

In the facts and circumstances, Clause-1 of para-6 of the order dated 16.8.2001 being illegal, it is set aside. The buses in question be released immediately, if the penalty of Rs. 5,000/- has already been deposited by the petitioners and the petitioner submits undertaking in terms with Clause-2 of the para-6 of the impugned order dated 16.8.2001.

6. The petitioners will produce a copy of this order before the authority including the Officer-in-Charge, Bariatu, Ranchi, who will ensure compliance of the Court's order within 48 hours from the date of submission of undertaking.

7. The writ petition stands disposed of, with the aforesaid observations.

8. Disposed of accordingly.