
(2012) 08 RAJ CK 0058

In the Rajasthan High Court

Case No : Civil Writ Petition (PIL) No's. 1240 of 2009 and 4011 of 2010

Shripal Jain and Another

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 21-08-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 192, 2(28)

Citation : (2013) 1 WLN 39

Hon'ble Judges : Arun Mishra, C.J.;Narendra Kumar Jain, J

Bench : Division Bench

Advocate : Anupam Agarwal, for the Appellant; S.N. Kumawat, AAG and Mr. Venkatesh Garg, for the Respondent

Judgement

Arun Mishra, C.J.—Heard. The Civil Writ (PIL) Petition No. 1240/09 has been filed by the petitioner praying for the relief that respondents be directed to stop plying of Jugaads which are being dangerously plied on the roads. The action of plying Jugaads is totally illegal. There is no registration of such vehicles and no road tax is paid by them. The respondents be directed to stop them and take action in accordance with law.

2. Suo moto cognizance was also taken by this Court in Civil Writ (PIL) Petition No. 4011/10 and there was interim order passed by this Court on 18.3.2010 in the said petition to the following effect:

(1). The respondents shall not allow plying of trucks, tractors with trolley and other vehicles on the road carrying cattle feed, cotton and other goods beyond capacity.

(2) plying of "Jugaad" on the roads in the State of Rajasthan shall remain stayed completely.

(3) such "Jugaad" which are plying on the roads, shall be seized forthwith.

(4) the Transport Authorities shall check the vehicles like jeep, bus, taxi, tempo

etc. carrying passengers and shall not allow plying of such vehicles on the roads beyond capacity and only permit the vehicle carrying passengers which is duly permissible.

3. Shri S.N. Kumawat, learned Additional Advocate General appearing on behalf of respondents has submitted that they are taking steps to ensure that no "Jugaad" is plied on the road. They are enforcing the order of the Supreme Court dt. 13.4.2012 in Petition for Special Leave to Appeal (Civil) No. 3265/2012, Chairman, RSRTC & Anr. vs. Santosh & Ors. in which the Apex Court has passed following order:-

In pursuance of our earlier order dt. 06.02.2012, Mr. H.P. Raval, learned Additional Solicitor General has produced the circulars issued by the Ministry of Shipping, Road Transport and Highways dt. 26.07.2007 and various other documents issuing instructions to all State Transport Authorities clarifying that the Jugaad falls within the definition of Motor Vehicle as defined under Sec. 2(28) of the Motor Vehicles Act, 1988 and all the States are under legal obligation to enforce the same. Thus, no person should be permitted to ply a Jugaad as it violates all the provisions of the Motor Vehicles Act, for the reason that it does not have any registration with the Transport Authority nor it is insured and the driver may not even have a driving licence in some cases. In case of accident etc., the liability under the provisions of the Motor Vehicle Act may not be properly enforced.

It has been pointed out by Mr. Raval, learned ASG that most of the State Authorities have not enforced the said circular or clarification made by the Central Government.

In view of the above, the Court suo-moto impleads all the States through the respective Transport Secretary/Commissioner as the party respondents. Rajasthan State Road Transport Corporation may serve a copy of the petition upon all Standing counsel of the States. They may take instructions within four weeks and produce any circular issued by the Transport Authority of that State before this Court.

List this matter immediately on re-opening after the summer vacation.

4. It is apparent from the order passed by the Hon'ble Supreme Court that it has already restrained plying of Jugaads as it violates various provisions contained in the Motor Vehicles Act and all the States have been impleaded as party.

5. It is also assured by Shri S.N. Kumawat, learned Additional Advocate General appearing on behalf of State and its authorities that they shall take steps in accordance with law as per Section 192 and other penal provisions contained in the Motor Vehicle Act, 1988 against the persons responsible for plying Jugaads which are not permissible as per provisions of the Act of 1988. Consequently, we find that as the Apex Court has already restrained plying of Jugaads, the order passed by the Apex Court in the matter be complied with by the respondents

forthwith. The seizure of Jugaads and suitable penal action, be taken in the matter in accordance with law. The directions No. 1, 2 and 4 in interim order dt. 18.03.2010 are also made absolute.

The petitions are disposed of accordingly.