

(1974) 11 SC CK 0028

In the Supreme Court Of India

Case No : Civil Appeal Nos. 1783-1786 and 1788 of 1973 and 916, 917, 919, 921, 922, 927-929, 931, 933, 937, 950, 951, 953, 954, 959, 960, 964, 966, 968, 970-972, 974-976, 978, 981, 983-985, 989, 990, 994, 996, 1000-1002, 1006, 1019-1021, 1024-, 1027, 1031, 1033-1035

STATE OF KARNATAKA AND OTHERS ETC., ETC.

APPELLANT

Vs

D. P. SHARMA ETC., ETC.

RESPONDENT

Date of Decision : 12-11-1974

Acts Referred:

Constitution of India, 1950 — Article 14, 301

Citation : (1975) 4 CTR 45

Hon'ble Judges : Mathew, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Mathew, J. - In these appeals, the question for consideration is whether the amendment to the Mysore Motor Vehicles Taxation Act, 1957 (hereinafter referred to as the Act) by introducing item No. 4A in Part A of the Schedule to the Act by Mysore Motor Vehicles Taxation (Amendment) Act, 1972, is constitutionally valid. By the amendment, tax in respect of motor vehicles which are covered by contract carriage permits has been raised from Rs. 35/- to Rs. 100/- per seat per quarter.

2. Before the High Court, the respondents challenged the validity of the Amendment Act on the ground that it violated their fundamental right under Article 14 and the right to freedom of trade, commerce and intercourse guaranteed under Article 301 of the Constitution. The ground of challenge under Article 14 was that contract carriages were similarly situated as stage carriages with respect to the purpose of the Act add that enhancement of vehicle tax on contract carriage alone offends that Article. The High Court held that the enhancement of the tax on contract carriages along violated Article 14 and declared that the amendment was void. The High Court, therefore, allowed the

petitions, without going into the question of the validity of the contention of the respondents based on Article 301. These appeals, by certificate, are directed against the judgment of the High Court.

Item 4A reads;

"Motor vehicles plying for hire or reward used for transport of passengers in respect of which contract carriage permits have been issued under the Motor Vehicles Act, 1939 and permitted to carry more than five persons excluding the driver, for every passenger which the vehicle is permitted to carry Rs. 100,150."

3. The Act was passed after the formation of the new State of Mysore and it received the assent of the President on 30-11-1957. Section 3 levies tax on all motor vehicles suitable for use on roads, kept in the State of Mysore at the rates specified in Part A of the schedule to the Act. In Part A of the schedule, taxation is either on the basis of laden weight, or the capacity of the vehicle to carry passengers, or the mileage covered. The basis of taxation in respect of goods vehicles is the laden weight of the vehicle while tax on motor vehicles for hire and used for transport of passengers is the seating capacity of the vehicle.

4. Before the Amendment Act, both stage carriage and contract carriage vehicles came under item No. 4 of Part A of the Schedule. By the Amendment Act, the rate of the tax on contract carriages was enhanced to Rs. 100.

5. This Court has held in *Automobile Transport (Rajasthan) Ltd. vs. State of Rajasthan* that imposition of a tax by a law passed by a State which is regulatory or compensatory in character would not infringe the freedom of trade, commerce and intercourse, even if the previous sanction of the President has not been obtained for the bill proposing to impose the tax. This court has explained in its judgment in *G. K. Krishan vs. State of Tamil Nadu*, the nature of a compensatory tax. We do not think it necessary to repeat here what was said in that judgment. Suffice it for the purpose of this case to say that the object of the Act is to tax all motor vehicles suitable for use on roads kept in the State, and that the tax is of a compensatory character, as the basis of the tax is either the weight of the vehicle or its seating capacity and, in some cases, the mileage travelled. Therefore, in deciding the question whether a higher rate of tax on contract carriages is discriminatory, it is necessary to see whether the classification made between stage carriages on the one hand and contract carriages on the other is reasonable, having regard to the object and purpose of the Act.

6. In the counter-affidavit filed on behalf of the State, it has been stated that contract carriage have no time schedule, that they can be plied on all routes in the State and at any time and that there's is no limit to the fare which the owners of the carriages charge and it was for these reasons that a higher tax has been imposed upon contract carriages than on stage carriages.

7. The High Court held that no materials have been placed before it by the State

to warrant a higher levy on contract carriages than on stage carriages, that the real reason for the higher levy on contract carriages was to eliminate their competition with stage carriages run by the State and, therefore, the tax is discriminatory.

8. The learned Solicitor General, appearing for the appellants, submitted that the burden of proving that the classification between stage carriage and contract carriages was unreasonable was on the respondents and, as they did not discharge the burden, the High Court went wrong in holding that the classification was reasonable. Secondly, he submitted that contract carriage have no time schedules, can operate on all routes in the State and at all times and that there is no limit to the fare which the owners charge for their hire, and therefore, a higher levy on contract carriages would not offend Article 14.

9. We have upheld in our judgment in *G. K. Krishna vs. State of Tamil Nadu*, the classification of stage carriage on the one hand and contract carriage on the other, for the purpose of a higher levy of vehicle tax on contract carriages on the basis that they have greater facilities for running more miles on an average than the stage carriages and the inference made by the legislature therefrom and based also on local conditions that they run more miles and thus cause greater wear and tear to the roads, was reasonable. This court has been consistently taking the view that if the basis of classification has some rational to the purpose of the act imposing it, that would be sufficient to satisfy the requirement of Article 14. We see no reason to depart from the principle laid down by this Court in *State of Gujarat vs. Ambica Mills Ltd.*, that the Court applies a spectrum of standards in reviewing discrimination violative of Article 14. That spectrum comprehends variation in the degree of care with which the court will scrutinize particular classification and that in the context of economic and tax matters, a classification made by the legislature is almost always sustained because the court lacks both the expertise and the familiarity with the local problem so necessary for making a wise decision, with respect to raising and disposing public revenues. We are not, therefore, prepared to upset a classification made by the legislature based on its knowledge and information that the contract carriages in the state use the roads more and cause greater damage to them as they are free from many of the restrictions placed on the running of stage carriages. We see no purpose in remanding the case for deciding the other question in view of our judgment in C.A. No. 2415/72 we delivered today.

10. We do not think that the respondents have succeeded in overcoming the presumption of the reasonableness of the classification. We allow the appeals without any order as to costs.