

(1971) 04 DEL CK 0027

In the Delhi High Court

Case No : Civil Writ Appeal No. 853 of 1968

The Delhi Ex-Servicemen Co-Op. Multipurpose Transport
Society Ltd.

APPELLANT

Vs

The District Magistrate

RESPONDENT

Date of Decision : 02-04-1971

Acts Referred:

Citation : (1971) ILR Delhi 415

Hon'ble Judges : H.R. Khanna, C.J;V.D. Misra, J

Bench : Division Bench

Advocate : S.S. Dalal and S.S. Chadha, for the Appellant;

Judgement

H.R. Khanna, C.J.

(1) On 4/09/1968, the District Magistrate of Delhi, passed an. order u/s 33 of the Bombay Police Act as extended to the Union Territory of Delhi, the material part of which reads as under :-

"WHERE As there is very heavy congestion on Boulevard Road, Zorawar Singh Road. Chowk Subzimandi.Rani Jhansi Road. Alipur Road from Kashmere Gate to its junction with Ring Road and Mori Gate round about which is likely to cause serious accidents involving danger to the lives of persons using these roads and serious obstruction to the flow of traffic :AND Whereas it is necessary to ensure the safety of such persons and convenience to the public: NOW ,therefore. I, B. N. Tandon, District Magistrate. Delhi ,in exercise of the powers conferred on me u/s 33 of the Bombay Police Act. as extended to the Union Territory of Delhi, do hereby order as follows :-All passenger buses, starting from the Inter-state Bus Terminal and going out of Delhi will not be allowed to ply on these roads. They will, however, ply on the routes mentioned below:-(i) Buses going towards Karnal side will take Ring Road turn right on Alipur Road at its junction with Ring Road, Mall Road and G.T. Road.(ii) Buses going towards Rohtak side will take Ring Road turn right on Alipur Road at its junction with Ring Road. Mall Road, G.T. Road and

Rohtak Road. (iii) Buses going towards Gurgaon side will take Ring road. Jawahar Lal Nehru Marg at its junction with Ring Road. Desh Bandhu Gupta Road. Faiz Road. Upper Ridge Road and Gurgaon Road. While coming into the Interstate Bus Terminal from outside Delhi the passenger buses will follow the same routine reverse order."

(2) The present petition under Articles 226 and 227 of the Constitution of India has been filed by the Delhi Ex-Servicemen Co-operative Multipurpose Transport Society and three others for quashing the above order. The petitioners are transport operators and each one of them holds a stage carriage permit for plying a passenger bus service on the route between Delhi and Badli. Badli is situated in Haryana at a distance of about two kilometres from Delhi Haryana border. Prior to the promulgation of the above order, all the motorbuses plying for transport of passengers between Delhi and areas and places outside the Union Territory of Delhi had their starting and terminal points near Delhi Railway Station. The petitioners buses used to ply from Railway Station Bus Stand via Subzi Mandi, Rohtak Road. As a result of the impugned order, petitioners buses go to Rohtak Road via Ring Road, Mall Road and G.T. Road.

(3) Although a number of grounds, have been given in the petition, Mr. Dalal on behalf of the petitioners has at the time of the hearing assailed the impugned order on two grounds. It is urged that the impugned order is violative of Article 14 of the Constitution in as much as the petitioners buses are not permitted to ply on Boulevard Road and other roads mentioned in the opening part of the impugned order. No such restriction has been placed upon the buses of the Delhi Transport Undertaking (hereinafter referred to as the Dtu buses). The second ground urged on behalf of the petitioners is that the impugned order could not be made u/s 33 of the Bombay Police Act as extended to the Union Territory of Delhi but could have been made only u/s 48 of the Motor Vehicles Act. There is, in our opinion, no merit in either of these two contentions.

(4) We may first take up the second contention, according to which the impugned order could not be made u/s 33 of the Bombay Police Act as extended to the Union Territory of Delhi. The relevant part of section 33(1)(b). as extended to the Union Territory of Delhi, reads as under :

"33.(1) The District Magistrate may make, alter or rescind rules or order not inconsistent with this Act for—(b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, driving, cycling, walking or leading or accompanying cattle, so as to prevent danger, obstruction or inconvenience to the public:

(5) The above provision of law confers power upon the District Magistrate inter alia to make order not inconsistent with the Act for regulating traffic of all kinds in streets and public places, and the use of all streets and public places by persons driving so as to prevent danger, obstruction or inconvenience to the public. It would, therefore, follow that with a view to prevent danger, obstruction

or inconvenience to the public, the District Magistrate can make an order for regulating traffic of any kind in streets. Shri B. N. Tandon. District Magistrate of Delhi, has in this connection filed his affidavit and it would appear there from that on 16/09/1967, he issued an order for regulating the traffic on various routes and roads with a view to relieve congestion for safety of general public during certain hours of the day. In spite of that order, the congestion on Boulevard Road ,Chowk Subzimandi, Zorawar Singh Road and other roads mentioned in the beginning of the impugned order did not case and there still remained likelihood of serious accidents, involving danger to the lives of the persons using those roads. The affidavit further shows that till such time as the impugned order was made there used to be heavy congestion of vehicular traffic on Boulevard Road and the other roads mentioned in the beginning of the impugned order. It was with a view to eliminate that heavy congestion of traffic on the said roads and thereby to prevent occurrence of serious accidents involving danger to the lives of persons using those roads and also to overcome the serious obstruction to the heavy flow of traffic that the District Magistrate passed the impugned order. As a result of the impugned order, all passenger buses carrying passengers bound for destinations in areas outside the Union Territory of Delhi are required not to use the aforesaid roads but are diverted along other roads inside the Union Territory. We find no particular reason to question the above averments contained in the affidavit of Shri Tandon. Those averments clearly point to the conclusion that the impugned order is designed to prevent serious accidents involving danger to the lives of persons using those roads and also to prevent serious obstruction to the flow of traffic. Not much argument is needed to show that the diversion of passenger buses proceeding to places outside the Union Territory of Delhi?s bound to relieve the congestion of heavy traffic on roads mentioned in the impugned order and thus reduce the hazards to the life and safety of those using the said roads. The words "regulating traffic" used in section 33(l)(b) would comprehend the control of traffic as is envisaged in the impugned order. The dictionary meaning of the words "regulate" is "to control by rule", and, in our opinion, the impugned order can legally be issued u/s 33 of the Bombay Police Act as extended to the Union Territory of Delhi.

(6) Section 48 of the Motor Vehicles Act, to which reference has been made on behalf of the petitioners, deals with the grant of stage carriage permits by the Regional Transport Authority. According to subsection (2) of that section, every stage carriage permit shall be expressed to be valid only for a specified route or routes or" for a specified area. Sub-section (3) of that section specifies the conditions which may be attached to the permit by the Regional Transport Authority if it decides to grant a stage carriage permit. One of the conditions as contemplated by clause (xxi) of that sub-section is that the Regional Transport Authority may, after giving notice of not less than one month, vary the conditions of the permit. It is, in our view .not necessary to express an opinion on the point as to whether the Regional Transport Authority under the above provision of law

could change the route for which stage carriage permit had been issued to the petitioners. We have in any case no doubt in our mind that the District Magistrate was well within his power to make the impugned order. The fact that as a result of the impugned order the income of the petitioners by plying their buses from Delhi to Badli and back has gone down would not affect the validity of the impugned order if it is shown otherwise to have been made in accordance with law.

(7) As regards the other contention of the petitioner that the impugned order is violative of Article 14 of the Constitution inasmuch as the impugned order does not apply to Dtu buses, we find that the affidavit of Shri Tandon shows that the Dtu buses carry passenger traffic within the limits of the Union Territory of Delhi along prescribed routes. It would lead to considerable hardship and inconvenience to the general public if the Dtu buses are prevented from plying on the roads on which they normally carry passenger traffic between different destinations within the Union Territory of Delhi. As against that, the petitioners buses carry passenger traffic to places and areas outside the Union Territory of Delhi. The affidavit further shows that the petitioners are entitled to pick up and set down passengers on Delhi-Badli route on places such as Shakurbasti, Nangloi, Randola, Najafgarh and Mitraon. It is stated that so far as the passengers traveling by the petitioners buses are concerned, it is immaterial to them by which particular road or routes their buses go out of the Union Territory of Delhi and the impugned order would not cause any hardship or inconvenience to those passengers. We have given the matter our consideration and are of the opinion that the impugned order makes a rational and reasonable classification between transport operators like the petitioners who ply their vehicles between Delhi and places outside Delhi on the one hand and the Delhi Transport Undertaking which is a public utility concern plying passenger vehicles for the convenience of the general public residing within the Union Territory of Delhi on the other. The above classification is based on an intelligible differentia which has a rational relation to the object sought to be achieved, namely, the relieving of congestion of vehicular traffic in order to prevent serious accidents endangering human life. It is now well-established that while Article 14 forbids class legislation, it does not forbid reasonable classification. In order to pass the test of permissible classification two conditions must be fulfilled, namely (i) that the classification must be founded on intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) that the differentia must have a rational relation to the object sought to be achieved by the statute or order in question. The classification may be founded on different basis, namely, geographical, or according to objects or occupations or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act or order under consideration. See *Ram Krishna Dalmia Vs. Shri Justice S.R. Tendolkar and Others*, . We would, therefore hold that the impugned order is not violative of Article 14 of the Constitution.

(8) It may also be stated that the validity of the earlier order dated 16/09/1967,

made u/s 33 of the Bombay Police Act, as extended to the Union Territory of Delhi by the District Magistrate, was challenged in Sukhdev Sahai and others v. District Magistrate, Delhi and another. Civil Writ No. 577 of 1970(2), decided by a Division Bench (Hardy and Ansari, J.J.) on 24/12/1970. The writ petition was dismissed and it was held that the impugned order was not in excess of the powers conferred upon the District Magistrate by the above provision of law.

(9) The petition consequently fails and is dismissed, but with no order as to costs.