
(2005) 08 UK CK 0019

In the Uttarakhand High Court

Case No : Writ Petition No. 650 of 2005 (M/B)

Vikram Jan Kalyan Sewa Samiti

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 05-08-2005

Acts Referred:

Constitution of India, 1950 — Article 14, 19(1)

Citation : (2006) 1 UC 683

Hon'ble Judges : Cyriac Joseph, C.J;B.C.Kandpal, J

Bench : Division Bench

Advocate : V.K. Kohli, for the Appellant; B.D. Kandpal, Learned Standing Counsel for State of Uttaranchal, for the Respondent

Final Decision : Dismissed

Judgement

Cyriac Joseph, C.J.—The Petitioner is the Vikram Jan Kalyan Sewa Samiti (Regd.) Vikram Stand, Indira Market, Dehradun. According to the Petitioner, Vikram Jan Kalyan Sewa Samiti is a society duly registered-under the Societies Registration Act, 1860 and the members of the Petitioner society are the owners of vehicles described as Vikram or Tempo. The Petitioner is aggrieved, by the letters produced as Annexures 4 and 6. Annexure 4 is a letter dated 02-12-2004 from the Traffic Inspector, Police Line, Dehradun to the President, Vikram Mahasangh, Dehradun directing that the Vikram owners should strictly observe One Day Weekly Off and the day of Weekly Off should be shown in the front and the rear of the vehicle. Annexure 6 is a letter dated 20-05-2005 from the Assistant Regional Transport Officer (Enforcement), Dehradun to the Presidents of all Vikram Unions directing that the day of Weekly Off should be shown on all the Vikrams. They were also directed to supply to the Assistant Regional Transport Officer a list containing the numbers of the vehicles and the days of Weekly Off in respect of each vehicle.

2. By this Court's order dated 06-07-2005, the third Respondent Regional Transport Officer, Dehradun was directed to file a counter affidavit explaining

under what authority and on the basis of which statutory provision, Vikram owners were directed to observe Weekly Off and to exhibit the day of Weekly Off on their vehicles. In compliance of the above direction, a counter affidavit has been filed by the Regional Transport Officer, Dehradun. In paragraph-4 of the counter affidavit, it is candidly admitted that there is no statutory provision requiring the Vikram owners to observe One Day Weekly Off and to exhibit the day of Weekly Off on their vehicles. It is also stated that the directions regarding observance of Weekly Off and exhibition of the day of Weekly Off on the vehicles were issued in pursuance of the decision taken by the Inter Agency Task Force held on 27-07-2002. It is further stated that the Inter Agency Task Force was formed on 21-05-2002 pursuant to a direction issued by the Central Pollution Control Board and the order dated 05-04-2001 of the Hon''ble Supreme Court in Civil Writ Petition No. 13029 of 1985. Along with the counter affidavit, a copy of the minutes of the meeting of the Inter Agency Task Force held on 27-02-2002 has been produced as Annexure CA-2.

3. We have perused the order of the Hon''ble Supreme Court in Civil Writ Petition No. 13029 of 1985. We could not find any direction by the Supreme Court regarding observance of a Weekly Off by the owners of the vehicles called Vikrams. Learned Standing Counsel for the State of Uttaranchal also could not point out any such direction in the order of the Supreme Court. From Annexure CA-2 minutes of the meeting of the Inter Agency Task Force held on 27-07-2002, it is seen that one of the decisions taken in the said meeting is that, in Dehradun city one day recess should be compulsory in a week for the Vikrams/Tempos/Auto-Rickshaws and that the day of the recess should be written on the vehicle. However, the said minutes do not disclose why such a decision was taken by the Inter Agency Task Force. The counter affidavit filed by the third Respondent also does not explain the object of requiring that there should be a Weekly Off in the case of Vikrams/Tempos/Auto-Rickshaws and that the day of Weekly Off should be written on the vehicle. In other words, the Respondents have not pointed out any valid and sufficient reason for imposing such a restriction on the owners/drivers of the Vikrams/Tempos/Auto-Rickshaws. The earlier mentioned order of the Hon''ble Supreme Court was only dealing with the need for preventing pollution by motor vehicles. The possible methods of such prevention also were indicated in the order of the Supreme Court. But, there was no suggestion or indication that pollution can be or should be prevented by insisting that the vehicles should observe One Day of Weekly Off. The idea of a Weekly Off appears to be the brain-child of the Inter Agency Task Force. But the Inter Agency Task Force has not stated the objects and reasons for imposing such a restriction. No satisfactory explanation is given in the counter affidavit filed by the third Respondent also. On the other hand, it is candidly admitted in the counter affidavit that the decision of the Inter Agency Task Force and the consequential directions issued by the Traffic Inspector and the Assistant Regional Transport Officer in Annexures 4 and 6, are not supported by the authority under any statute. If the avowed object of observing One Day of Weekly Off is to prevent or

reduce pollution by the vehicles, it can be achieved by insisting that the vehicles should use pollution-free fuel or that pollution control equipments should be fitted on the vehicles, in stead of directing the vehicles to keep off the road on one day in a week. If the object is to reduce the number of vehicles on the road at a time in order to control traffic or to maintain law and order, why such a restriction is not imposed on other types of vehicles and why only the Vikrams/Tempos/Auto-Rickshaws are subjected to discriminatory treatment? In the absence of satisfactory explanation for the above aspects, we are of the view that the impugned directions given by the Respondents through Annexures 4 and 6 Letters, are unreasonable restrictions on the fundamental right, guaranteed to the owners/drivers of the vehicles under Article 19(1)(g) of the Constitution of India, to "practice any profession or to carry on any occupation trade or business". Hence, Annexures 4 and 6 offend Article 19(1)(g) of the Constitution of India. They also offend Article 14 of the Constitution of India, in as much as, they have subjected the owners/drivers of Vikrams/Tempos/Auto-Rickshaws to hostile discrimination by imposing the impugned restrictions only in respect of the said vehicles.

4. For the reasons stated above, Annexures 4 and 6 are quashed and the Respondents are directed not to take any action against the drivers/owners of the Vikrams on the ground that they have not observed One Day Weekly Off or that they have not exhibited the Day of Weekly Off on the vehicles.

5. The writ petition is allowed in the above terms.