

Subhash Chandra and Others

Vs

State of U. P. and Others

Special Leave Petition (Civil) No. 1262 of 1980

(V. R. Krishna Iyer, D. A. Desai JJ)

12.02.1980

JUDGMENT

KRISHNA IYER, J. -

1. An order draped in relative brevity is sufficient since we are refusing leave to appeal although the issue raised is the vires of a provision.

2. After due fulfilment of the obligation for oral hearing, we have considered the impact of two earlier decisions cited by Shri Kacker supposedly striking a note contrary to the judgment under attack but feel free - why, bound - to dismiss the petition for special leave not merely because the High Court is right but because justice to the travelling public - a lost cause on our mad roads - conscientizes us to that course.

3. Tersely put, the petitioner is the grantee of permits to ply mini buses as contract carriages and in the grant a condition has been fastened that the vehicle shall not be more than seven years old. Condition No. 18, relating to Mini-Buses Contract Carriage Permits, and the source of power, Section 51(2)(x) read thus :

"That the vehicle covered by the permit shall be not more than four years old counted from the date of registration at any time during the validity of the permit."

"51(2) The Regional Transport Authority, if it decides to grant a contract carriage permit, may, subject to any rules that may be made under this act, attach to the permit any one or more of the following conditions, namely -

(x) any other conditions which may be prescribed,"

'Four years' have been relaxed to seven years since September 23, 1978, the beneficiaries being the bus owners and the potential victims being the unknown casualties who have no 'poor lobby' power. The State must remember that it has responsibilities not merely to mini-bus owners, but also to avoid the daily tragedies on the Indian highways under the lethal wheels of these whirling carriages. Section 51(2) of the Motor Vehicles Act, 1939, is geared to public safety, not private profit and casts a solemn duty not to be deterred by any pressure except the pressure of social justice to Indian lives moving in buses, walking on roads or even standing on margins. If the top killer - road accident - is to be awarded death sentence, Section 51 and like provisions must receive severe enforcement. In this spirit - although backtracking from 4-year old models to 7-year old models - the State imposed Condition 18. This was challenged artfully but unsuccessfully before the High Court and is attacked

before us as ultra Section 51(2) of the Act. We will examine briefly the submission to reach the conclusion that mere lexical legalism cannot sterilise the sensible humanism writ large on Section 51(2)(x). If Indian life is not ultra vires Indian law every condition to save life and limb is intra vires such salvatory provision. This perspective of social justice simplifies the problem and upholds the High Court.

4. Section 51(2)(x) authorises the impost of any condition, of course, having a nexus with the statutory purpose. It is undeniable that human safety is one such purpose. The State's neglect in this area of policing public transport is deplorable but when it does act by prescribing a condition the court cannot be persuaded into little legalism and harmful negativism. The short question is whether the prescription that the bus shall be at least a seven-year old model one is relevant to the condition of the vehicle and its passenger's comparative safety and comfort on our chaotic highways. Obviously, it is. The older the model, the less the chances of the latest safety measures being built into the vehicle. Every new model incorporates now device to reduce danger and promote comfort. Every new model assures its age to be young, fresh and strong, less likely to suffer sudden failures and breakages, less susceptible to wear and tear and mental fatigue leading to unexpected collapse. When we buy a car or any other machine why do we look for the latest model? Vintage vehicles are good for centenarian display of curios and cannot but be mobile menaces on our notoriously neglected highway. We have no hesitation to hold, from the point of view of the human rights of road users, that the condition regarding the model of the permitted bus is within jurisdiction, and not to prescribe such safety clauses is abdication of statutory duty.

5. Two decisions - *Masi Ullah v. State Tribunal Appellate* (AIR 1967 All 128) and *In re Ramesh Chandra Tewari* (Civil Misc. Writ No. 7317 of 1975 of Allahabad High Court (unreported)) were cited as striking a contrary note. The first deals with Section 48(3) of the Act and prescription of the model or year of the make was held ultra vires because, lexically read, it was held that the expression 'specified description' in Section 48(3) did not cover, according the dictionaries, the year of manufacture of the vehicle. We extract Black's Law Dictionary on 'description' to show how the model of a vehicle is obviously a facet of its description. 'Description' means : (Black's Law Dictionary, p. 532)

A delineation or account of a particular subject by the recital of its characteristic accidents and qualities.

So, dictionary versus dictionary leave the matter at large, apart from the plain junction of the court to gather the meaning, not under the dictatorship of dictionaries but guided by the statutory purpose without being deflected by logomachic exercises, the mischief to be countered and the public interest to be advanced. We are clear that a later model is a better safeguard and, more relevantly to the point, the year of the make and the particulars of the model are part of the description.

6. The unreported ruling in Civil Writ No. 7317 of 1975 interprets Section 38 of the Act and the non-issuance of the fitness certificate because the model was not recent enough. Maybe, the vehicle, regardless of the year of its make, may be fit and the refusal to certify fitness merely because it is old may not always be right. But we see no conflict between a vehicle being fit to ride and the condition, as an additional requirement and safety factor, in the shape of the year of the model. This is an extra measure, a further insurance against machine failure and cannot contradict the 'fitness' provision.

7. More reasons are supererogatory; less discussion will leave the law obscure. We hold the ratio of

the impugned ruling to be right and refuse leave to appeal.

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