

Maninderjit Singh Bitta

v.

Union of India & Others

(Supreme Court Of India)

HON'BLE CHIEF JUSTICE MR. S.H. KAPADIA HON'BLE MR. JUSTICE A.K.  
PATNAIK HON'BLE MR. JUSTICE SWATANTER KUMAR

Writ Petition (Civil) No. 510 Of 2005 With Petition For Special Leave To Appeal No. 24497,  
13485, 13630-13631 Of 2011 & 1894-1897 Of 2012 & Writ Petition (Civil) No. 162 Of 2010  
| 07-02-2012

Swatanter Kumar, J.

1. The Government of India, on 28th March, 2001, issued a notification under the provisions of Section 41(6) of the Motor Vehicles Act, 1988 (for short, 'the Act') read with Rule 50 of the Motor Vehicles Rules, 1989 (for short, 'the Rules') for implementation of the provisions of the Act. This notification sought to introduce a new scheme regulating issuance and fixation of High Security Number Plates. In terms of sub-section (3) of Section 109 of the Act, the Central Government issued an order dated 22nd August, 2001 which dealt with various facets of manufacture, supply and fixation of new High Security Registration Plates (hereinafter, 'HSRP'). The Central Government also issued a notification dated 16th October, 2001 for further implementation of the said order and the HSRP scheme. Various States had invited tenders in order to implement this scheme.

2. A writ petition being Writ Petition (C) No.41 of 2003 was filed in this Court challenging the Central Government's power to issue such notification as well as the terms and conditions of the tender process. In addition to the above writ petition before this Court, various other writ petitions were filed in different High Courts raising the same challenge. These writ petitions came to be transferred to this Court. All the transferred cases along with Writ Petition (C) No. 41 of 2003 were referred to a larger Bench of three Judges of this Court, by order of reference dated 26th May, 2005 in the case of Association of Registration Plates v. Union of India [(2004) 5 SCC 364], as there was a difference of opinion between the learned Members of the Bench dealing with the case. The three Judge Bench finally disposed of the writ petitions vide its order dated 30th November, 2004 reported in Association of Registration Plates v. Union of India [(2005) 1 SCC 679]. While dismissing the writ petition and the connected matters, this Court rejected the challenge made to the provisions of the Rules, statutory order issued by the Central Government and the tender conditions and also issued certain directions for appropriate implementation of the scheme.

3. The matter did not rest there. Persistent default and non-compliance by the different States with regard to the statutory Rules, implementation of the schemes as well as the orders passed by this Court resulted in filing of the present writ petition being Writ Petition (C) No.510 of 2005. This writ petition also came to be disposed of by a three Judge Bench of this Court vide its judgment dated 8th May, 2008 titled as Maninderjit Singh Bitta v. Union of India [(2008) 7 SCC 328]. It will be appropriate to refer to the operative part of the said judgment:

"5. Grievance of the petitioner and the intervener i.e. All India Motor Vehicles Security Association is that subsequent to the judgment the scheme of HSRP is yet not implemented in any State except the State of Meghalaya and other States are still repeating the processing of the tender. The prayer therefore is that the purpose of introducing the scheme should be fulfilled (sic- in) letter and spirit. The objective being public safety and security there should not be any lethargy. It is pointed out that most of the States floated the tenders and thereafter without any reason the process has been slowed down...

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9. Needless to say the scheme appears to have been introduced keeping in view the public safety and security of the citizens. Let necessary decisions be taken, if not already taken, within a period of six months from today. While taking the decision the aspects highlighted by this Court in the earlier decision needless to say shall be kept in view."

4. Despite the above judgment of this Court, most of the States have failed to implement the scheme and the directions contained in the judgments of this Court. The matter remained pending before this Court for a considerable time and various orders passed by this Court directing implementation of the scheme were not complied with. On 7th April, 2011, by a detailed order, we had taken note of the intervening events and the fact that a large number of States had not even implemented the scheme and the directions contained in the judgments of this Court. Before -- invoking the extraordinary jurisdiction of this Court for initiation of contempt proceedings against the concerned authorities of the respective defaulting States, this Court considered it necessary to only require the presence of officers in Court and provided them with another opportunity to ensure compliance of the directions issued by this Court. Despite assurance of an effective implementation of the Court's orders, nothing substantial was done within the time of six weeks, granted by this Court vide its Order dated 7th April, 2011. Certain Interim Applications (I.A.s) were filed by some of the States for extension of time and in view of the assurance given in court, this Court had also dispensed with the personal appearance of the senior officers of those State Governments. However, with some regret, we noticed that still a few states had not complied with the directions of this Court and the casual attitude of the State Government of these States was obvious from their very conduct, inside and outside the Court. This attitude compelled us to pass a very detailed Order on 30th August, 2011, classifying the States into different categories. The first category of the States had taken steps and even awarded the contract for supplying HSRP. The second category was of the States/U.T.s -- which had not followed the correct procedure for selection and had approved all private vendors, with 'Type Approval Certificate' (TAC)

from the Central Government, to affix the 'HSRP' at their own premises or at the Office of the RTO. The third category was of the defaulting States who had filed affidavits, assuring the Court of taking steps and finalising the tender allotment within the specified dates. On the basis of the affidavits filed by them, they were granted further time and were required to file affidavits of compliance. The last category was of the States which had been persisting with the default and had not taken any effective steps to comply with the directions of this Court. Thus, vide Order dated 30th August 2011 we had passed the following directions in relation to this category :

"9. From the record before us, it is clear that there is apparent and intentional default on the part of the concerned officers of these defaulting States. Consequently, we issue notice to show cause why proceedings under the Contempt of Courts Act, 1971 be not initiated, if found guilty, why they be not punished in accordance with law and why exemplary costs, personally recoverable from the erring officers/officials, be not imposed. Notice shall be issued to:

a. Secretary (Transport) of the defaulting States.

b. Commissioner, State Transport Authority of the respective States."

5. Despite the above orders, a number of States failed to comply with the Court's directions as well as implement the provisions of the Act. In these circumstances, the Court was satisfied that there being willful violation of the orders of the Court, the default tantamount to contempt of Court.

6. Vide order dated 13th October, 2011, the Court while dealing with I.A. No. 10 of 2011, besides issuing certain directions, also punished the officers of the defaulting State by imposing a fine of Rs. 2,000/- each and even imposed exemplary cost of Rs. 50,000/- on the State of Haryana, since it had failed to take any steps in furtherance to the previous order. The matter remained pending, the States were directed to invite tenders and sign agreements with the successful bidders in accordance with the Rules and to complete the work of affixation of HSRP in their entire State/Union Territory. Thereafter, this Court again passed a very detailed order dealing with the circumstance of each State on 8th December, 2011. All these orders, i.e., the Orders dated 30th August, 2011, 13th October, 2011 and 8th December, 2011 should be read as integral part of this final order.

7. In the Order dated 8th December, 2011, we had directed the States to file affidavits of compliance and undertakings that the implementation of the scheme and the provisions of the Act, read in conjunction with the orders of this Court, shall be completed within the specified timeframe. The undertakings were to be filed within four weeks from 25th November, 2011. Another significant direction contained in that order was that all the States, except some of the States, i.e., States of Assam, Chhattisgarh, Haryana, Jharkhand, Madhya Pradesh, Orissa,

Punjab, Uttarakhand and Union Territory of Lakshadweep, should complete the implementation of the scheme by 31st March, 2012. States of Himachal Pradesh and Nagaland were granted further time for completing the implementation of the scheme in relation to old vehicles only upto 15th June, 2012.

8. Despite specific orders of the Court, the States of Arunachal Pradesh, Meghalaya, Chhattisgarh, Orissa, Tamil Nadu, West Bengal and Union Territory of Lakshadweep have failed to file the requisite affidavits and undertakings within the time granted. The learned counsel for some of these states justified the non-filing of the affidavit on different grounds like that the Registry of the Court was closed for winter vacations on the date when the period of four weeks for filing affidavit expired. This is factually incorrect inasmuch as the period of four weeks would expire on 24th December, 2011 as per our order dated 8th December, 2011. Though the Supreme Court closed for winter vacation on 18th December, 2011, the Registry was opened till 25th December, 2011. Therefore, nothing prevented these States/Union Territories from filing affidavits/undertakings within the stipulated time i.e. 24th December, 2011. Secondly, the process of tenders had not been finalized by the States for one reason or the other and, therefore, they considered it unnecessary to file affidavits required by the Court's Order. We find these excuses without any substance. It was known to everybody as to when the Court was going to close and the affidavits could have been filed well in advance to 24th December, 2011. Even if the affidavits were not accepted on the re-opening of the Court after vacations, the counsel should have mentioned the matter before the Court, which was not done. The affidavits were to be filed stating what steps have been taken by the respective States and undertaking was to be given for compliance with the orders of the Court for implementation within the stipulated time. Both these steps were not dependant upon the completion of the tender process or other difficulties. The parties could have nevertheless filed applications, which, admittedly was not done. Therefore, we find that all these States have acted irresponsibly and with callousness.

9. It should be clearly understood by the hierarchy of the State as well as the learned counsel appearing for the respective States that the Court's time is spent on these cases, that too, at the cost of regular cases pending in the Court. The orders of the Court are expected to be implemented by the officers of the Government and the learned counsel appearing for the parties without default and with a sense of urgency. Though, we find no reason to grant further time to these states as no justifiable ground has been stated before us, however, in the interest of justice and by way of last opportunity, we extend the period for filing of such affidavits and/or undertakings by two weeks from today, on pronouncement of this order. It shall be subject to payment of Rs. 10,000/- as costs by each State to the Supreme Court Legal Services Committee, costs being conditional.

10. There are States which have, by and large, implemented the scheme and have commenced the program for fixation of HSRPs in their respective States. These States are Himachal Pradesh, Manipur, Mizoram, Nagaland, Sikkim, Uttarakhand and Union Territory of Andaman & Nicobar Islands. We appreciate the effort put by these states and would direct

that they should complete the entire program in all respects before 30th April, 2012 in their respective States.

11. In furtherance to our order dated 8th December, 2011, learned Registrar, Judicial-II, has submitted his Report pointing out that some of the states have not filed affidavits/undertakings. They have not taken effective steps for implementation of the scheme, in discharge of their statutory obligation and in compliance with the orders of the Court as well. Having perused the Report of the Registrar and the affidavits filed on behalf of different states, we issue the following directions:-

(a) All States which have invited tenders, have completed the process of finalizing the successful bidder and issued the Letter of Intent, but have not yet signed agreements with -

(b) the successful bidder, shall sign such agreements within four weeks from today. These States are Assam, Bihar, Gujarat, Haryana, Jammu and Kashmir, Jharkhand, Punjab, Tripura and Uttar Pradesh.

(c) The States which have so far not even finalized the tender process, they should do so, again, within four weeks from today. Amongst others these States and Union Territories are Chhattisgarh, Madhya Pradesh, Chandigarh, Delhi (NCT) and Puducherry.

(d) Installation of HSRP is a statutory command which is not only in the interest of the security of State, but also serves a much larger public interest. Therefore, it is not only desirable, but mandatory, for every State to comply with the statutory provisions/orders of this Court in terms of Article 129 of the Constitution of India, 1950. All states, therefore, are mandated to fully implement the scheme of fixation of HSRP in their entire state, positively by 30th April, 2012, in relation to new vehicles and 15th June, 2012 for old vehicles.

We make it clear that they shall not be allowed -

(e) any further extension of time for implementation of this direction.

(f) The directions contained in the earlier judgments of this Court and more particularly, the orders dated 30th August, 2011, 13th October, 2011, 8th December, 2011 and this order, should be implemented within the extended period without default.

(g) In the event of default, concerned Secretary (Transport)/Commissioner, State Transport Authority and/or any other person or authority responsible for such default shall be liable to be proceeded against under the provisions of the Contempt of Courts Act, 1971.

12. We grant liberty to the petitioner and/or any other person to take out contempt proceedings, if now there is any non-compliance of the orders of this Court and the statutory duty imposed upon the authorities concerned with regard to implementation and completion of the scheme and process of fixation of HSRP, in any State/Union Territory.

13. We cannot help but to notice the unwarranted conduct and willful disobedience of the orders of this Court by the State of Andhra Pradesh. This State was found to be a defaulter even in the earlier orders passed by this Court. In furtherance to our order dated 8th December, 2011, an affidavit on behalf of the State was filed on 2nd January, 2012, in this Court. This affidavit has been filed by the Secretary (Transport), Government of Andhra Pradesh. This State had not even initiated any action or process to implement the scheme, as directed under the orders of this Court. To shirk its responsibility, it has been stated in this affidavit that after passing of the order of this Court dated 8th December, 2011, the Government of Andhra Pradesh reviewed the issue and issued an amendment to its original Government Order dated 8th March, 2011. Vide its Government Order dated 24th December, 2011, the Government entrusted the work of implementation of the HSRP in the State of Andhra Pradesh to the Andhra Pradesh State Road Transport Corporation. Strangely, the affidavit further claims that the scheme of HSRP is being implemented according to the direction issued by this Court. Still another affidavit was filed by the Transport Commissioner of the State of Andhra Pradesh on identical lines.

14. These affidavits or even the affidavits filed earlier on behalf of the State of Andhra Pradesh do not even remotely suggest that any steps had been taken by the State for implementing the scheme of HSRP in compliance with the directions issued by this Court. We are unable to appreciate this attitude of the State administration, with which they have persisted, despite specific directions contained in the Order dated 30th August, 2011 and even in the earlier orders passed by this Court. Their conduct and behaviour has undermined the authority of this Court as well as the dignity of justice.

15. Consequently, we issue notice to show cause to Smt. D.Lakshmi Parthasarathy, Principal Secretary (Transport, Roads and Building Department), Andhra Pradesh and Shri Hiralal Samaria, Transport Commissioner, State of Andhra Pradesh to show cause, why they be not punished in accordance with the provisions of the Contempt of Courts Act for violating the orders of this Court.

16. The Registry shall maintain a separate file for the contempt proceedings initiated against these defaulting officers of Andhra Pradesh.

17. The State of West Bengal filed its affidavit (dated 12th May, 2011) of partial implementation in two districts only, on 24th May, 2011. Thereafter, no affidavit has been filed on behalf of this State. Despite orders of the Court dated 30th August, 2011, 13th September, 2011, 8th December, 2011 and this order, they have failed to file affidavit placing correct facts in regard to the further implementation of the scheme before this Court. In these circumstances and by way of last opportunity, we permit the Secretary (Transport)/ Commissioner, State Transport Authority, West Bengal to file their respective affidavits within two weeks from today subject to payment of Rs.10,000/- as costs.

18. Wherever we have imposed costs for non-compliance with the directions of this Court, the same shall be paid by the State Governments at the first instance. We are of the considered view that the present cases are not the ones where the Court should permit the public exchequer to be burdened by payment of costs. –

In fact, the costs paid should be recovered from erring or defaulting officers/officials.

19. The State of Arunachal Pradesh is again a State which has neither filed undertaking nor affidavit in terms of the orders of this Court. The learned counsel appearing for the State, however, submitted that they have already started the process and would be able to complete the implementation of the scheme within three months. According to the learned counsel, their predicament was that the successful tenderers had refused to deposit the requisite security amount as contemplated under the terms and conditions of the contract. Be that as it may, we have already granted extension of time, and we therefore, direct the State of Arunachal Pradesh now to implement the orders of this Court without fail within the time granted and subject to payment of Rs. 10,000/- as costs.

20. We make it clear that this order shall dispose of the writ petition.

21. All the files that had been summoned by this Court for ensuring the complete implementation of the scheme shall now revert back to the respective courts for their disposal in accordance -with law. Some of the learned counsel appearing for the parties before us had argued that because of certain directions passed by the Courts concerned in these ongoing cases, the concerned States may not be able to finally implement the scheme within the time bound schedule. We request the concerned High Courts to deal with such matters on priority keeping in view the afore-stated directions and orders. We further give liberty to the parties whose petitions are pending before this Court to make a mention before the concerned Bench for expeditious disposal. We have no doubt in our mind that such request of the petitioners would be examined on its own merits by the Hon'ble Judges in the larger interest of national security.

22. Since all aspects of this matter stand finally concluded vide our orders dated 30th August, 2011, 13th October, 2011 and 8th December, 2011 and ultimately by this Order, we see no reason to keep this petition pending on the Board of this Court.

23. Consequently, all I.As., contempt petitions in Writ Petition No. 510 of 2005 and Writ Petition (Civil) No. 510 of 2005 stand finally disposed of with no order as to costs.

24. However, SLP(C) No. 24497 of 2011, SLP(C) No. 13485 of 2011, Writ Petition (Civil) No. 162 of 2010, SLP(C) Nos. 13630-13631 of 2011 and SLP(C) No. 1894-1897 of 2012 shall now revert back to their respective Courts.

25. Application for impleadment as respondent filed by Ms. Shimnit Utsch India Pvt. Ltd., one of the successful tenderers in the matter relating to State of Maharashtra stands dismissed in view of this final order.