

# RAJASTHAN HIGH COURT

Taxi Vikas Karya Sanstha

Vs.

State of Rajasthan

Civil Writ Petn. Nos. 4727 of 2000, 328 of 1998, 2540 of 1995 and 149 of 2001  
(Dr.B.S. Chauhan, J.)

05.02.2001

## ORDER

**Dr.B.S. Chauhan, J.**

1. In all these petitions the condition attached to the permits of the Jeep Taxi not to put the luggage carrier on the Jeep has been challenged and as the common questions of law and fact are involved, all these petitions are decided by a common judgment and order.
2. The facts are not in dispute. Petitioners or the members of the petitioners Union have been granted the permits of contract carriage to carry the parties on certain occasions in the Jeeps. The condition has been attached to these permits that they shall not put the Luggage Carrier on the top of the Jeep. The condition so imposed has been challenged on the ground of inconvenience to the travellers and being arbitrary. Sri R. P. Dave, learned counsel appearing for the respondents has opposed it on the ground of public safety and convenience of the travelling passengers.
3. Section 74 of the Motor Vehicles Act, 1988 (hereinafter referred to as the Act) empowers the authority to impose the conditions while granting the contract carriage permit including the following :-
  - (iii) The maximum number of passengers and the maximum weight of luggage that may be carried on the vehicles, either generally or on specified occasions or at specified times and seasons;
  - (iv) The conditions subject to which goods may be carried in any contract carriage in addition to, or to the exclusion of passengers;

(ix) That the Regional Transport Authority may, after giving notice of not less than one month-

(a) Vary the conditions of the permit;

(b) Attach to the permit further conditions;

4. It has further been pointed out that as per the specification of the Jeep it is not desirable to have the luggage carrier for the reason that if the luggage carrier is being installed on the top, it would not be safe for the travelling persons as it would be installed on the four iron rods without having proper body. Moreover, it will require a pedestal to put the luggage etc. which may be misused also while carrying the passengers and it has further been submitted that every day overloaded vehicles have been found even carrying the passengers on the roof of the Jeep. Thus, it is in the interest of the public at large and specially the travelling public that such a condition has been attached.

5. In *Subhash Chandra v. State of Uttar Pradesh*,<sup>1</sup> the Hon'ble Supreme Court while dealing with the case of model condition has observed as under (Paras 3 and 4)

"This was challenged artfully but unsuccessfully before the High Court and is attacked before us as *ultra vires* Section 51 (2) of the Act. We will examine briefly the submission to reach the conclusion that more lexical legalism cannot sterilize 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. Section 51 (2) (x) authorizes 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 not be persuaded into little legalish and harmful negativism."

6. In view of the above higher model condition was upheld.

7. In *K. Kunhalavi v. Regional Transport Authority, Malappuram*,<sup>2</sup> it has been held by the Hon'ble High Court that imposition of condition while granting the permit in public interest cannot be held to be invalid, *ultra vires* or without jurisdiction and Transport Authority is perfectly justified in imposing the condition for granting the permit which is in public interest.

8. In *Zakir Hussain v. State of Maharashtra*,<sup>3</sup> the Bombay High Court considered the provisions of Section 115 of the Act 1988 under which the competent authority has put a ban on plying certain types of vehicles on a particular route. The Division Bench of the Bombay High Court observed as under (Paras 17 and 20) :-

"While considering the aspect of validity of restriction and judging reasonableness of law, it is necessary to consider the surrounding circumstances and it is necessary to find out whether it is for furthering the social interest. The competent authority is the best Judge of the situation and circumstances and is expected to exercise the power under Section 115 of the Act in the interest of public safety or convenience etc. The jurisdiction of the Court, in such situation, can be extended only to find out whether there was material available before the Competent Authority in order to reach the requisite satisfaction contemplated under Section 115 of the Act for issuing prohibitory order or Notification. In our opinion, jurisdiction cannot be extended to find out adequacy or inadequacy of the material which warrants such exercise by the Competent Authority which should to be left to the Competent Authority to act in the situation as per the Scheme of the section."

9. In the instant cases the respondents authority have filed the reply stating that there had been cases of overloading; taking passengers on the roof of the Jeep. It was considered in public interest not to allow the luggage carrier on the top of the Jeep for the reason that it is put only on four iron pipes without any proper body which could support the luggage. Moreso only six passengers are permitted to be carried and for carrying the luggage of six passengers there is sufficient space inside the Jeep itself. The specification of the Jeep generally does not provided for a luggage carrier.

10. After considering the pros and cons and the view taken by the Hon'ble Supreme Court and different High Courts as referred to above, I am of the considered opinion that the conditions imposed herein cannot be held to be illegal or invalid as the same has been imposed in public safety and public interest.

11. Thus, the petitions are devoid of merit and are accordingly dismissed. There shall be no order as to costs.

Petition dismissed.

## Cases Referred.

1. AIR 1980 SC 800
2. AIR 1999 Ker 121
3. AIR 2001 Bom 21