* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Judgment: 30.11.2010*

\+ **W.P.(C) No.8019/2010**

RAJ KUMAR SHAH .....Petitioner
Through: Mr.K.Venkatraman, Advocate

Versus

GOVERNMENT OF N.C.T. OF DELHI & ORS. .....Respondents
Through: Mr.Shariq Mohd. for Mr. Najmi Waziri, Counsel for GNCT of Delhi.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not? Yes

3. Whether the judgment should be reported in the Digest? Yes

INDERMEET KAUR, J. (Oral)

C.M.20688/2010 (for exemption)

Exemption is allowed subject to all just exceptions.

Application is disposed of.

W.P.(C) No.8019/2010

1. This writ petition has impugned the order dated 4.1.2008. On 4.1.2008 the Deputy Commissioner, Auto Rickshaw & Taxi Unit, Transport Department, Govt. of NCT of Delhi had on an application regarding replacement of petrol driven auto rickshaw to new CNG operated auto rickshaws of the following registration numbers:

1. DL1R 9861
2. DAR 1983
3. DL1RB 2129

had passed the below noted order:

> "All the three cases are of the three-wheelers which were required to be converted to CNG fuel mode pursuant to the directions of the Hon'ble Supreme Court of India by 31.3.2001.

> Later on the time limit was extended till 31.1.2002 against special permits issued by Transport Department. The applicants in the present cases, as per record available, have not effected the replacement in the prescribed time limit and hence the request of the applicants cannot be accepted in view of the orders of the Hon'ble Supreme Court of India.
>
> Photocopies of orders of Hon'ble Supreme Court of India dated 26.3.2001 and 18.10.2001 are also enclosed."

2. Contention of the appellant is that he is the registered owner of the auto rickshaw bearing no.DL-1R-9861. On 28.7.1998, the Supreme Court had restricted plying of all commercial vehicles including taxis and auto rickshaws which are more than 15 years old. On 26.3.2001, the following order was passed:

> "While reiterating that commercial vehicles which do not comply with the directions issued by this Court on 28th July, 1998, shall not be permitted to ply in Delhi w.e.f. 1st April, 2001, we have today made certain relaxations and exemptions to mitigate the sufferings of commuter public in general and school going children in particular, by granting limited extension of the dead-line till 30th September, 2001, in certain specified cases.
>
> With a view to ensure that the relaxations and exemptions given by us today are not abused or misused, we direct that each one of the commercial vehicles (buses or autos) which are covered by the relaxations, shall be permitted to ply after 1st April, 2001 till 30th September, 2001 <u>only</u> if they carry and display on the windscreen of the concerned vehicle a permit/ or authorization duly signed by Shri Ashok Pradhan, Principal Secretary, Transport, Delhi Administration, Delhi. Shri Pradhan shall issue the permit/authorization after satisfying himself that the person applying for the permit/authorization falls within the parameters of relaxation given by us and is entitled to the permit/authorization, having placed a firm order for conversion to CNG/other clean fuel mode to ply the vehicle in Delhi till 30th September, 2001. Copies of the affidavits to be filed by the parties, on or before 31.3.2001 in this court, in terms of various clauses of relaxation, shall be furnished to Shri Pradhan by Shri Rawal, the learned A.S.G. for facility of reference."

3. On 18.10.2001, the Supreme Court recorded as follows:

> "Time fixed by order dated 26th March, 2001 (as extended by order dated 28th September, 2001) is extended till 31st January, 2002 in terms of the signed order. This order, is in continuation of order dated 28th September, 2001."

4. The petitioner had not even applied for Form P-3. His contention being that the vehicle had been taken on hire purchase; he not having obtained clearance of this hire purchase, he could

not follow up his case.

5. Attention has been drawn to the information obtained by the petitioner on his RTI application. It is pointed out that the Transport Department as per this information had allowed replacing of new vehicles after the scrapping of the old auto rickshaws.

6. The policy of the government had clearly been detailed; if a party wished to replace its old auto with a new CNG vehicle, it was permitted to do so after completion of formalities which included the scrapping of the old auto rickshaw. No such action was carried out by the petitioner for which there is no reasonable explanation. There was a prescribed time limit within which the petitioner had to act. Almost more than a decade had passed since that time. The time limit had been extended by the Supreme Court; last up to 31.1.2002. Action not having been taken by the petitioner within the prescribed time and his waking up from his slumber almost nine years thereafter is of no help. This writ petition is clearly an abuse of the process of law; it is dismissed. No order as to costs.

INDERMEET KAUR, J.

NOVEMBER 30, 2010
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