

Court No. - 39

Case :- WRIT - C No. - 35729 of 2023

Petitioner :- Banda Petroleum Dear Association, Banda

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Ami Tandon, Sr. Advocate

Counsel for Respondent :- CSC

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Heard Shri Anoop Trivedi, learned Senior Advocate, assisted by Shri Amit Tandon, learned counsel for the petitioner and Shri Mukul Tripathi, learned Standing Counsel for the State.

2. Challenge has been raised to the impugned communication dated 27.09.2023 issued by the District Supply Officer, Banda, whereby general directions have been issued to retail outlets of petrol/diesel vendors. For ready reference, the offending portion of the aforesaid communication is quoted below :

"अपर जिलाधिकारी महोदय द्वारा उक्तानुसार दिये गये निर्देश के क्रम में आपको आदेशित किया जाता है कि किसी भी दशा में बिना हेलमेट, बिना सीट बेल्ट के वाहनों को पेट्रोल, डीजल न दिये जाये एवं इस सम्बन्ध में अपने-अपने पेट्रोल पम्पों पर बैनर आदि पर सूचना प्रदर्शित की जाये। यदि उक्त के अनुपालन में आपके स्तर पर किसी प्रकार की शिथिलता पाई जायेगी तो इसका पूर्ण दायित्व आपका होगा एवं तदनुसार आपके विरुद्ध यथोचित कार्यवाही करने के लिए बाध्य होना पड़ेगा। "

3. Submission being advanced by learned Senior Counsel for the petitioner are two fold. First, it has been submitted, the District Supply Officer has no jurisdiction whatsoever to issue any direction with respect to the manner in which sales are to be

affected by retail outlets of petrol/diesel vendors. Second, it has been submitted, insofar as measures have been attempted to be enforced to ensure wearing of helmets by two wheeler riders and seat belts by four wheeler drivers, the same are stated to be covered under the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). Inasmuch as the District Supply Officer is not the competent authority under the Act and further inasmuch as entire procedure to take action is provided under that Act, the impugned communication is wholly contrary to law.

4. On the other hand, learned Standing Counsel submits, the impugned communication has been issued to encourage road safety measures. To that end, the retail outlets of petrol/diesel vendors are required to publish certain information to create public awareness and also to help enforce the law pertaining to road safety.

5. Having heard learned counsel for parties and having perused the record, at present, we do not find cause of action to have crystallised to the petitioner. Insofar as road safety measures are being enforced, strictly speaking, petitioner is not an aggrieved person. As to the further grievance that the petitioner cannot be forced to ensure the compliance of road safety measures, while no objection is being raised to the publication of certain information, in absence of any consequential action shown to have been taken against the petitioner in furtherance of the impugned communication dated 27.09.2023, we find that the present petition is premature.

6. Without entering into the merits, we are not inclined to offer any interference on the submission being advanced by the learned Senior Counsel, at this stage.

7. If cause of action does arise, those issues may be raised at the appropriate stage.

8. With the aforesaid observations/directions, the writ petition stands **disposed of**.

Order Date :- 30.10.2023

SA

(S. Q. H. Rizvi, J.) (S.D. Singh, J.)