

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4830 OF 2015

RAJIV GANDHI TAXI UNION, LATUR
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Balbhim R. Kedar
AGP for Respondent Nos. 1,3 and 4: Mrs. A.V. Gondhalekar.
Advocate for respondent No.5 : Mr. A.V. Hon.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE :19TH JULY , 2016.

PER COURT:

1] Petitioner Association is a Taxi Union. Present petition is filed assailing notification dated 28.1.2015 issued by the respondent No.2 thereby restricting the area of operation of the Black Yellow Taxies (Jeeps) in the city of Latur.

2] Mr. Kedar Learned counsel submits that the members of the petitioner union have been given permission to ply the Black Yellow Taxies (Jeeps) in the Latur District. The said permits/licences have been issued from the year 1998 to 2004. All these persons are educated unemployed and are in their fifties. Learned counsel submits that if such restrictions are put then it will directly affect the livelihood of these permit holders. According to Shri Kedar, learned Advocate, the restrictions are put in contravention of Section 74 of the Motor Vehicles Act. As per Section 74 of the Motor Vehicles act, if the terms of the permit are to be changed, one month's notice is

required to be given. No such notice has been issued to the petitioner. In the light of that, said action is per-se illegal.

3] Learned counsel further submits that when the petitioners are granted permit to operate and ply their vehicles throughout Latur District the respondent No.2 does not have any authority to restrict the operation of the said permit and that too, without issuing notice to the petitioner or its members. Learned counsel submits that the impugned notification is also bad in law on account of discrimination on the part of the respondents. The other vehicles/Taxis holding State/National permits are not restricted from plying their vehicles in said area and only regional Black and Yellow Taxis and six seater's are restricted. The same is arbitrary and violative of Article 14 of the Constitution of India. Even earlier, when notices were issued in the year 2010, restriction was sought to be placed while operating in the Latur city for a particular time, the impugned notification is again in contravention of the said notices. According to learned counsel, there are only 137 Black Yellow Taxis operating or entering into Latur city. Other vehicles are much larger in number. As such, it is erroneous on the part of the respondent to state that because of the vehicles of the petitioner union, traffic problem would arise. Learned counsel submits that the notification being arbitrary and illegal, the same deserves to be set aside.

4] Mr. Kedar further submits that even applications have been given to the Municipal Corporation to provide for the parking space. The parking space is to be provided under the statute itself. If the corporation

provides for the parking space, as is mandated by law, there would not be any problem of parking nor any traffic problem would arise. The respondent Corporation has also failed in its duty.

5] Mr. Hon, appearing for the respondent Corporation submits that the Corporation has already communicated the petitioner that there is no space with the corporation for parking. Petitioner may have a private land for parking.

6] Learned AGP submits that the notification has been issued invoking the powers under Section 115 of the Motor Vehicles Act. The frequency of the vehicles of the petitioner is much more than that of the vehicles holding National or State Permit. Even action is being contemplated in respect of the Luxury Buses. According to AGP, before issuing such notification, a meeting was convened of the representatives of the petitioner union and after considering their suggestions and objections, the notification has been issued.

7] We have considered the submissions canvassed by the learned counsel for the respective parties. The impugned notification is issued purportedly invoking the powers under Section 115 of the Motor Vehicles Act. Section 115 of the Motor Vehicles Act permits the State or any authority authorized in this behalf by the State Government, if it is satisfied that it is in the interest of public safety or convenience or because of the nature of any road or bridge, may, by notification in the Official Gazette, prohibit or restrict the driving of motor vehicles or of any specified class or description

of the motor vehicles or the use of trailers , either generally or in specified area, or a specified road.

The provisions of Section 115 of the Motor Vehicles Act, gives ample power to the authority to place restriction for plying a vehicle within the specified limits. While imposing such restriction, as laid down under Section 115, the terms of the permit are not being changed.

8] It would appear that before the said decision was taken, a meeting was convened on 20.1.2015, wherein, various representatives of the petitioner union so also, from the RTO Office and Commissioner of Municipal Corporation were present. After considering the suggestions and also considering the objections, it was decided to restrict plying of Black and Yellow Taxies, and six seater's from operating in a specified area or in other words, these vehicles were allowed to operate up to a particular limit in the city.

9] The reasons are also given. It is stated in the minutes of the said meeting that the Police Superintendent had 3 meetings of the Black Yellow Taxi Union and their representatives and had directed to observe the rules. It was also observed in the said minutes that there is a problem of traffic congestions, roads are narrow and in the city there are lot of schools and colleges, hospitals and as such,because of plying of said vehicles, there is a traffic problem for common people.

10] Maintainance of law and order and traffic is the duty of the respondent authorities. They have taken a decision in a particular manner. The said authorities are experts in that field. The Court, certainly would not have expertise in respect of the said aspect. The court would not sit in appeal over the said decision but would only consider, whether the decision making process has been observed. It would appear that before the notification is issued, meetings were held, suggestions and objections of the representatives of various unions were considered. The representatives of the petitioner union were also present in the said meetings and thereafter, the said decision has been taken. It is for the authorities to consider the frequency of particular vehicles and how best the traffic can be managed.

11] Considering the above, it would not be appropriate to entertain the grievance raised by the petitioner. In the light of that, writ petition is disposed of. No costs.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-