

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 1 OF 2014

MR. SUDIP N. TAMANKAR

... Petitioner

Versus

STATE OF GOA THROUGH ITS CHIEF
SECRETARY AND 2 ORS.,

... Respondents

Mr. Pranay A Kamat, Advocate for the petitioner.

Mr. P. Dangui, Addl. Government Advocate for the respondent nos. 1
and 2.

Mr. Shivan Desai, Advocate for the respondent no.3.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 26th April, 2016

P.C.

Heard Mr. P. A. Kamat, learned counsel appearing for the petitioner, Mr. P. Dangui, learned Addl. Government Advocate appearing for the respondent nos.1 and 2 and Mr. Shivan Desai, learned counsel appearing for the respondent no.3.

2. The above PILWP filed by the petitioner is essentially on the ground that the buses belonging to the respondent no.3 and some other buses were allowed to be used for a political gathering in breach of the provisions of Section 87 of the Motor Vehicles Act. It is the contention of the petitioner that besides the buses of the respondent no.3 there were other private buses which were used to transport the delegates for such meeting without obtaining the requisite permission in terms of Section 87 of the Motor Vehicles Act. It is further his case that as such the public exchequer has lost a

substantial amount towards passenger tax which the private operators as well as the respondent no.3 were liable to pay through the respondent no.1.

3. The respondent no.3 has filed an affidavit disputing that the provisions of Section 87 of the Motor Vehicles Act are applicable to the facts of the present case. It is the contention of the respondent no.3 that the respondent no.3 has a stage carriage permission under Section 72 of the Motor Vehicles Act and as such the only obligation on the respondent no.3 is to inform the Directorate of Transport in terms of Section 101 of the Motor Vehicles Act for such additional services. It is further pointed out that in the present case though the respondent no.3 had not given such information to the concerned authorities, nevertheless, the respondent no.3 had complied with the provisions of Section 101 of the Motor Vehicles Act by furnishing such information to the Directorate of Transport who duly collected the requisite taxes for plying such buses.

4. Mr. Kamat, learned counsel appearing for the petitioner has submitted that the respondent no.3 is bound to comply with the provisions of Section 87 of the Motor Vehicles Act as according to him the purpose for plying the buses was not within the scope of Section 101 of the Motor Vehicles Act. The learned counsel further submits that though the respondent no.3 has collected the requisite taxes, nevertheless, as the respondent no.3 has admitted that no information was furnished to the concerned authorities prior to the user of such buses, the respondent no.3 be directed to ensure that the

provisions of the Motor Vehicles Act are duly complied with henceforth. The learned counsel further submits that at para 5 of the affidavit in rejoinder filed by the petitioner, specific particulars have been furnished disclosing the registration numbers of the private buses and the other buses which were used on the said occasion and as such the authorities be directed to take necessary action against such buses in terms of the Motor Vehicles Act. The learned counsel has taken us through the photographs on record to corroborate his contention that such private buses were used on the said occasion. The learned counsel as such points out that the concerned authorities be directed to take necessary action in accordance with law. The learned counsel further pointed out that the penalty in terms of Section 192-A of the Motor Vehicles Act has to be imposed against the private operators for committing the breach of the terms of registration.

5. The learned Addl. Government Advocate however submits that as far as the respondent no.3 is concerned, the provisions of Section 101 of the Motor Vehicles Act would be applicable and as the requisite information has already been furnished to the concerned authorities, nothing survives with that regard in the present petition as against the respondent no.3. The learned Addl. Government Advocate further points out that as far as the private operators are concerned as the records are now furnished to the concerned authorities, the respondent no.2 shall take necessary action after verifying the facts in accordance with law.

6. Mr. Shivan Desai, learned counsel appearing for the respondent no.3 in answer to the above submissions has pointed out that the respondent no.3 has furnished an undertaking at para 2 of the additional affidavit dated 13th January, 2016 to the effect that in future the necessary intimation in terms of Section 101 of the Motor Vehicles Act would be made to the concerned authorities. The learned counsel further pointed out that though there was a lapse in not intimating the concerned authorities, nevertheless, in future such intimation shall be duly complied with.

7. We have considered the submissions of the learned counsel and we have also gone through the records. As far as the grievances of the petitioner against the respondent no.3 are concerned, as the respondent no.3 has provided in terms of Section 101 of the Motor Vehicles Act and the compliance thereof has been accepted by the respondent no.2, we find that no further directions are required to be issued as far as the respondent no.3 is concerned. Apart from that, para 2 of the additional affidavit filed by the respondent no.3 clearly discloses that in future the respondent no.3 shall comply with the provisions of Section 101 of the Motor Vehicles Act as and when such occasion arises.

8. As far as the remaining grievances of the petitioner in respect of the private operators are concerned, to examine the veracity of such contention, admittedly the private operators are not before this Court, as such the question of issuing directions to take action in terms of the Motor Vehicles Act against the private operators at this

stage would not be appropriate. But however, taking note of the contention of the learned Addl. Government Advocate that the respondent no.2 shall verify the averments at paras 4 and 5 of the affidavit in rejoinder filed by the petitioner and thereafter proceed to take necessary action in accordance with law, we find that accepting such statement of the learned Addl. Government Advocate, the grievance of the petitioner on that count at this stage stands substantially redressed. Needless to say that the authorities shall ensure that in future whenever buses are used for such occasion the provisions of Section 87 of the Motor Vehicles Act whenever applicable are duly complied with.

9. The Addl. Government Advocate upon instructions of Shri Meghashyam Pilankar, Asst. Director of Transport (HQ), Panaji Goa, who is present in Court states that the respondent no.2 shall file the compliance report within six months from today. The petition stands disposed of in the above terms.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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