

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11094 OF 2018

Mumbai Bus Malak Sanghatana, Mumbai ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Mr. Nitin Deshpande for the Petitioner.

Ms. S.D. Vyas, "B" Panel for the State.

**CORAM : B.P. DHARMADHIKAKRI &
REVATI MOHITE DERE, JJ.**

DATE : JANUARY 09, 2019

P.C.:

Heard learned counsel for the petitioner. He seeks leave to place on record the further notification by which restrictions imposed by impugned order dated 19/4/2017 are continued. He submits that when all vehicles are responsible for congestion, banning only vehicles of the private transporters is arbitrary. Further contention is the exemption given to public transport buses is violative of article 14 because vehicles used by the petitioners & public transport are identical. Lastly it is pointed out that no halting places are provided to private transport vehicles.

2. Learned AGP submits that the impugned notification is a

measure taken to dilute the traffic congestion from the area because of ongoing works and it is in exercise of powers under section 115 of the Motor Vehicles Act, 1988. He further submits that after necessary application of mind, the decision has been reached and as such there is no jurisdictional error. She points out that the petitioners have not placed on record any demand made by them for halting places.

3. During the hearing, we find that in January, 2018, an order to continue the partial restrictions imposed by the order dated 29/4/2017 has been issued. Admittedly order is under section 115 only & on the same line. The order specifically mentions that the authority has found it necessary to regulate the traffic because of congestion which is occurring due to large number of construction work going on in the area. The works mentioned are repairs and other road works, Metro/Mono rail projects, electric and telephonic lines. The fact that these works are going on is not disputed by the petitioner. In the light of this situation, they have also not disputed the traffic congestion. When these facts are not disputed, recourse to section 115 empowering the authority to impose restrictions on traffic of motor vehicles of any particular class or description can not be seen as unwarranted.

The vehicles of private transporters definitely constitute independent and distinct class and are regulated distinctly by the provisions of the Motor Vehicles Act, 1988. We therefore, find no substance in the contention that restraint order is either arbitrary or there is any hostile discrimination.

4. In so far as demand for halting places is concerned, there has to be demand first and thereafter this court can be approached for writ of mandamus. We therefore, permit the petitioners to make proper representation pointing out the suitable halting places. If such representation is received within four weeks from today the competent authority shall look into it as per law within next three months.

5. With these directions, we dispose of the writ petition. There shall be no order as to costs.

(REVATI MOHITE DERE, J.) (B.P. DHARMADHIKARI, J.)