

Subhash Chandra And Ors vs State Of U.P. And Ors on 12 February, 1980

Equivalent citations: 1980 AIR 800, 1980 SCR (2)1024, AIR 1980 SUPREME COURT 800, 1980 2 SCC 324, 1980 ALL. L. J. 352, 1980 (2) SCC 524, (1980) 2 S C R 1024, 1980 UJ (SC) 369, (1980) TAC 258, (1980) 2 SCJ 117

Author: V.R. Krishnaiyer

Bench: V.R. Krishnaiyer, D.A. Desai

PETITIONER:
SUBHASH CHANDRA AND ORS.

Vs.

RESPONDENT:
STATE OF U.P. AND ORS.

DATE OF JUDGMENT12/02/1980

BENCH:
KRISHNAIYER, V.R.
BENCH:
KRISHNAIYER, V.R.
DESAI, D.A.

CITATION:
1980 AIR 800 1980 SCR (2)1024
1980 SCC (2) 324
CITATOR INFO :
R 1983 SC 988 (1,2)

ACT:
Motor Vehicles Act, 1939, Section 51(2)-Whether Regional Transport Authority imposing a condition that no permit shall be renewed in respect of vehicles which are 7 years old is ultra-vires Article 19(1)(g) of the Constitution-Competency of the R.T.A. to impose such a condition.

HEADNOTE:
^ Dismissing the special leave petition, the Court

HELD: 1. Mere lexical legalism cannot sterilise the sensible humanism writ large on s. 51(2)(x). If Indian life

is not ultra vires Indian law every condition to save life and limb is intra vires such salvatory provision.

[1025G]

2. Section 51(2) of the Motor Vehicles Act, 1939, is geared to public safety, not private profit and casts a solemn duty not to be deterred by any pressure except the pressure of social justice to Indian lives moving in buses, walking on roads or even standing on margins. If the top killer-road accident-is to be awarded death sentence, s. 51 and like provisions must receive severe enforcement. In this spirit-although backtracking from 4-year-old models to 7-year-old models-the state imposed condition 18. Section 51(2) (x) authorises the impost of "any condition" of course having a nexus with the statutory purpose. Human safety is one such purpose.

[1025D-F,

H]

3. From the point of view of the human rights of road users, the condition regarding the model of the permitted bus is within jurisdiction and not to prescribed such safety clauses is abdication of statutory duty. There is no conflict between a vehicle being fit to ride and the condition as an additional requirement and safety factor in the shape of the year and the model. This is an extra measure, a further insurance against machine failure and cannot contradict the 'fitness' provision. [1126D, 1027A-B]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Special Leave Petition No. 1262 of 1980.

From the Judgment and Order dated 19-2-1979 of the Allahabad High Court in C.M.W.P. No. 184 of 1975.

S. N. Kaicker, Mrs. S. Markendeya and S. Markendeya for the Petitioners.

The Order of the Court was delivered by KRISHNA IYER, J.-An order draped in relative brevity is sufficient since we are refusing leave to appeal although the issue raised is vires of a provision.

After due fulfillment of the obligation for oral hearing, we have considered the impact of two earlier decisions cited by Shri Kaicker sup-

posedly striking a note contrary to the judgment under attack but feel free-why, bound-to dismiss the petition for special leave not merely because the High Court is right but because justice to the travelling public-a lost cause on our made roads-conscientises to that course.

Tersely put, the petitioner is the grantee of permits to ply minibuses as contract carriages and in the grant a condition has been fastened that the vehicle shall not be more than seven years old. Condition No. 18, relating to Mini-Buses Contract Carriage permits, and the source of power, s. 51 (2) (x) read thus:

That the vehicle covered by the permit shall be not more than four years old counted from the date of registration at any time during the validity of the permit.

51(2) The Regional Transport Authority, if it decides to grant a contract carriage permit, may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely:-

(x) any other conditions which may be prescribed.

Section 51(2) (x) any other.

'Four years' have been relaxed to seven years since September 23, 1978, the beneficiaries being the bus owners and the potential victims being the unknown casualties who have no 'poor lobby' power. The State must remember that it has responsibilities not merely to mini-bus owners, but also to avoid the daily tragedies on the Indian high ways under the lethal wheels of these whirling carriages. Section 51 (2) of the Motor Vehicles Act, 1939, is geared to public safety, not private profit and casts a solemn duty not to be deterred by any pressure except the pressure of social justice to Indian lives moving in buses, walking on roads or even standing on margins. If the top killer-road accident-is to be awarded death sentence, s. 51 and like provisions must receive severe enforcement. In this spirit-although backtracking from 4-year-old models to 7-year-old models-the state imposed condition 18. This was challenged artfully but unsuccessfully before the High Court and is attacked before us as ultra vires s. 51(2) of the Act. We will examine briefly the submission to reach the conclusion that mere lexical legalism cannot sterilise the sensible humanism writ large on s. 51(2) (x). If Indian life is not ultra vires Indian law every condition to save life and limb is intra vires such salvatory provision. This perspective of social justice simplifies the problem and upholds the High Court.

Section 51(2) (x) authorises the impost of any condition, of course, having a nexus with the statutory purpose. It is undeniable that human safety is one such purpose. The State's neglect in this area of policing public transport is deplorable but when it does act by prescribing a condition the court cannot be persuaded into little legalism and harmful negativism. The short question is whether the prescription that the bus shall be at a seven-year old model one is relevant to the condition of the vehicle and its passengers' comparative safety and comfort on our chaotic highways. Obviously, it is. The older the model, the less the chances of the latest safety measures being built into the vehicle. Every new model incorporates new devices to reduce danger and promote comfort. Every new model assures its age to be young, fresh and strong, less likely to suffer sudden failures and breakages, less susceptible to wear and tear and moral fatigue leading to unexpected collapse. When we buy a car or any other machine why do we look for the latest model ? Vintage vehicles are good for centenarian display of curios and cannot but be mobile menaces on our notoriously neglected

highways. We have no hesitation to hold, from the point of view of the human rights of road users, that the condition regarding the model of the permitted bus is within jurisdiction, and not to prescribe such safety clauses is abdication of statutory duty.

Two decisions-Masi Ullah v. State Tribunal Appellate(1) and In re: Ramesh Chandra Tewari etc.(2) were cited as striking a contrary note. The first deals with s. 48(3) of the Act and prescription of the model or year of the make was held ultra vires because, lexically read, it was held that the expression specified description in s. 48(3) did not cover, according to dictionaries, the year of manufacture of the vehicle. We extract Black's Law Dictionary on 'description' to show how the model of a vehicle is obviously a facet of its description. 'Description' means: (3) A delineation or account of a particular subject by the recital of its characteristic accidents and qualities.

So, dictionary versus dictionary leaves the matter at large, apart from the plain function of the court to gather the meaning, not under the dictatorship of dictionaries but guided by the statutory purpose without being deflected by logamachic exercises, the mischief to be countered and the public interest to be advanced. We are clear that a later model is a better safeguard and, more relevantly to the point, the year of the make and the particulars of the model are part of the description.

The unreported ruling in Civil Writ No. 7317 of 1975 interprets s. 38 of the Act and the non-issuance of the fitness certificate because the model was not recent enough. May be the vehicle, regardless of the year of its make, may be fit and the refusal to certify fitness merely because it is old may not always be right. But we see no conflict between a vehicle being fit to ride and the condition, as an additional requirement and safety factor, in the shape of the year of the model. This is an extra measure, a further insurance against machine failure and cannot contradict the 'fitness' provision.

More reasons are, superogatory, less discussion will leave the law obscure. We hold the ration of the impugned ruling to be right and refuse leave to appeal.

S.R.

Petition dismissed.