

Shivam Nayak vs State Of Nct Of Delhi And Ors on 10 January, 2019

Author: V. Kameswar Rao

Bench: Chief Justice, V. Kameswar Rao

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 13637/2018 & CM APPLs. 53148-49/2018

SHIVAM NAYAK

..... Petitioner

Through:

Mr. Nimish Chib with Ms. Divya
Chugh, Advs.

versus

STATE OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Satyakam, ASC, GNCTD for R-1
to 3.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% 10.01.2019 CM APPL. 53149/2018 (exemption) Allowed, subject to just exceptions.

W.P.(C) 13637/2018 & CM APPL. 53148/2018

1. This petition in public interest by the petitioner seeks a mandamus to the respondents directing them to check the arbitrary use of two-wheelers, particularly, motorcycles by respondents No.4 to 9 on the ground that even though these two-wheelers are registered as private vehicles they are functioning as commercial vehicles for delivery of food items and therefore the provisions of the statute are violated. Inter alia contending that food is delivered by respondents No.4, 5, 6, 7, 8 and 9 on the basis of online requisition or phone calls made, the delivery of food items are made at doorstep or houses as per requisition and for the delivery purpose two-

wheelers, particularly, bikes which are registered as private vehicles are being used. This, according to the petitioners, is in flagrant violation of the Motor Vehicles Act and the Rules framed. It is stated that the vehicles which are registered as private vehicles are being used for commercial purpose and no action is being taken.

2. In our considered view, the petition in public interest for the relief claimed for is not maintainable. It is in fact a petition where the petitioner wants respondents No.1 and 2 to formulate rules and regulations to bring within the ambit of commercial vehicles the vehicles which are used by the private respondents for supply of food items. This is a policy matter, a legislative issue and merely because the private vehicles are used for delivery of food items by the persons who are

employed for the said purpose, we see no reason to make any indulgence into the matter as we are informed that the delivery boys/persons are employed under the condition that they will have a vehicle which shall be used by them for their work.

3. Taking note of the nature of dispute canvassed before us, we are of the considered view that the matter is within the domain of the executive or legislative authorities who have to either formulate a policy or legislate and bring into place a suitable legislation with regard to the same or take a call on the policy issues involved in the matter. The representations and the grounds raised in the petition further go to indicate that it seems to be an endeavour to seek a direction to lay down terms and conditions for employment of such persons who are working as delivery boys as some of the grounds raised in the writ petition and the representations go to show that in canvassing a cause for better working conditions, coverage for Provident Fund, Employees State Insurance, etc. are needed. All these issues, in our considered view, cannot be looked into at the instance of the petitioners in this Public Interest Litigation. In case the delivery boys/persons have any grievance with regard to their exploitation or service conditions, it is for them to object to the same and take such steps as are permissible in law for ventilating their grievance. At the instance of the petitioner in the garb of the relief as prayed for, we are not inclined to interfere into the matter.

4. The writ petition is therefore dismissed. The pending application also stands disposed of.

CHIEF JUSTICE V. KAMESWAR RAO, J JANUARY 10, 2019 kks