
All India Cycle Rickshaw Operators Union (Regd.) Vs M.C.D. and Others

C.W. 1742 of 1990

Court: Delhi High Court

Date of Decision: April 4, 1995

Acts Referred:

Constitution of India, 1950 – Article 226

Citation: (1995) 58 DLT 564

Hon'ble Judges: Dr. M.K. Sharma, J; D.P Wadhwa, J

Bench: Division Bench

Advocate: Y.K. Jain and P.K. Jain, for the Appellant; K.K. Bhuchar, for the Respondent

Final Decision: Dismissed

Judgement

M.K. Sharma, J.

By this petition the petitioners seek a direction to the respondents to immediately release the seized cycle rickshaws of

the petitioners with a further directions not to impound or seize the cycle rickshaws of the petitioners till such time a decision is taken on their

applications in accordance with law.

2. It may be stated herein that the writ petition namely C.W. 1742/1990 was disposed of finally by this Court by an order dated 12.12.1991. It

has been observed in the said order dated 12.12.1991 thus "that the Counsel for the Municipal Corporation of Delhi stated that all the cases of the

petitioners Along with other applications would be taken up for consideration and decision would be taken thereon in accordance with the

clarification and observation given by the Supreme Court within a period of 3 months." It appears that in pursuance of the aforesaid statement

made by the learned Counsel for the respondent No. 1, this Court by order dated 12.12.1991 directed the Municipal Corporation of Delhi to take

a decision in accordance with the observations and clarifications of the Supreme Court and decide the applications of the petitioners.

3. Subsequent to the disposal of the aforesaid writ petition the respondent Corporation came up with a new scheme for grant of cycle-rickshaws in

different Zones of Delhi and invited applications for issuance of fresh licenses as well as renewal of old licenses. In the present petition the

petitioners have stated that in order to avoid unnecessary complications and subsequent to promulgation of the new scheme by the respondent

Corporation, the petitioners applied afresh to the Corporation for issuance of fresh licenses, but on the said applications of the petitioners no

decision had been taken by the respondent Corporation in pursuance of the scheme of the Corporation promulgated in June/July, 1994.

It appears from the record that subsequent to the promulgation of the scheme of June/July, 1994 another writ petition namely C.W. No.

3015/1994 has been filed by the petitioners in this Court, which is pending disposal in view of a miscellaneous application filed by the petitioners

after the disposal of the said writ petition by this Court, by order dated 27.7.1994.

4. It has also been brought to our notice by the Counsel for the parties that in view of purported non-compliance by the respondent Corporation of

the orders of this Court passed on 11.3.1991 and 12.2.1991 in C.W. No. 1742/1993 a contempt petition has been filed by the petitioners in this

Court which has since been numbered and registered as C.C.P. 19/1995 and pending in this Court wherein show cause notices have already been

issued to the officials of the respondent Corporation.

5. The respondent Corporation has filed an affidavit in the aforesaid C.M.P. No. 437/1995 wherein it has been stated that the General Secretary

of the All Delhi Cycle-Rickshaw Operators Union had sent a letter of thanks to the respondent Corporation stating therein that all the cycle-

rickshaws of the petitioners noted in C.W.P. No. 1742/1990 have been branded by the staff of Municipal Corporation of Delhi as directed by this

Court under Order dated 12.12.1991. It has further been stated that some of the petitioners who are widows brought more than one cycle

rickshaw for branding and that in the year 1992-93 no application was received for the purpose of branding and in fact no cycle rickshaw was

produced by any persons for the purpose of branding. So far the year 1994 is concerned, it has further been stated in the said affidavit filed by the

respondent Corporation that few of the persons shown in Annexure P-1/A of the petition did apply for grant of cycle rickshaw licenses but on the

appointed date and at the appointed time and hour none of the aforesaid persons came forward for getting the cycle rickshaw inspected for the

grant of license except one person whose name figured at Si. No. 4 in Annexure P-1 / A and whose three rickshaws offered by her for inspection

were duly found fit and she was granted 3 cycle rickshaw licenses.

6. In view of the aforesaid statements made by the respondent Corporation we are not inclined to interfere in the present petition as the same

involves disputed questions of fact which could not be adjudicated upon in exercise of our extraordinary power under Article 226 of the

Constitution of India. Besides, since a contempt petition in respect of purported non-compliance of the order of this Court passed on 11.3.1991

and 12.2.1991 in C.W.P. No. 1742/1990 has already been preferred by the petitioners in this Court and is pending for final disposal, we see no

reason why we should issue further direction in the present petition as sought for by the petitioners. In this connection we may also appropriately

refer to a decision of the Apex Court in the case, of State of Uttar Pradesh Vs. Brahm Datt Sharma and Another, wherein the Apex Court has

observed thus:--

The High Court had no jurisdiction to entertain the application as no proceedings were pending before it. The High Court committed error in

entertaining the respondent's application as no proceedings were pending before it. The High Court committed error in entertaining the

respondent's application which was founded on a separate cause of action. When proceedings stand terminated by final disposal of writ petition it

is not open to the Court to reopen the proceedings by means of a miscellaneous application in respect of a matter which provided a fresh cause of

action. If this principle is not followed there would be confusion and chaos and the finality of proceedings would cease to have any meaning.

7. In our considered opinion the contents of the present petition namely --G.M.P. No. 437/1995 disclose a fresh and separate cause of action and

Therefore, it would not be appropriate for us to entertain the present application giving rise to a separate cause of action altogether after the final

disposal of the writ petition No. 1742/1990. In view of our aforesaid findings we see no merit in this application and the same is rejected.