

Jagtar Singh and others v. The State Transport Authority, U.T., Chandigarh and another (S. S. Sodhi, J.)

persons who claimed to have adopted them. Since the facts, which were considered by the Passport authority in coming to the conclusion, were not disputed and the provisions making the adoption to be invalid were apparent on record, the action of the Passport authority cannot be challenged. We, thus, hold that no case is made out for issuance of a writ of *mandamus* in the writ jurisdiction.

(13) Learned counsel for the petitioners has shown his apprehension that these orders of the Passport authority may not stand in the way of the petitioners in applying again for the issuance of passports by giving their natural parentages, he, thus, prays for a clarification. To avoid all doubts, we hereby issue a direction to the Passport authorities that if fresh applications are made by the petitioners, showing themselves to be the sons of their natural fathers and mothers, the orders of the Passport authority dated 21st June, 1989 Annexure P2 relating to Harjit Singh petitioner and order dated 23rd June, 1989 Annexure P-6 concerning Parminder Singh petitioner will not stand in their way.

(14) With these orders and directions, both the writ petitions stand disposed of.

P.C.G.

Before : S. S. Sodhi & J. B. Garg, JJ.

JAGTAR SINGH AND OTHERS,—Petitioners.

versus

THE STATE TRANSPORT AUTHORITY, U.T., CHANDIGARH & ANOTHER,—Respondents.

Amended Civil Writ Petition No. 8984 of 1988.

30th November, 1990.

Motor Vehicles Act, 1988—S. 56—Motor Vehicles (National Permit) Rules, 1975—Rl. 6 as amended by Central Motor Vehicles Rules, 1989—Rl. 88—Constitution of India, 1950—Arts. 14 & 19—Rule fixing age of vehicle as condition of grant or continuance of National Permit—Rl. 6 as amended by 1989 rules rendering transport vehicles more than 9 years old ineligible for grant of National Permits is constitutionally valid.

Held, that rule 6 of the Motor Vehicles (National Permit) Rules, 1975, as amended by Central Vehicles Rules, 1989 cannot but be held to be constitutionally valid and therefore the condition regarding denial of National Permits to vehicles more than nine years' old or such permits becoming invalid from the date of the vehicle covered by it, completes nine years from its initial registration, is clearly valid and legal.

(Para 8)

Amended Writ Petition under Articles 226/227 of the Constitution of India praying that:—

- (i) *that a writ of mandamus be issued, directing respondent No. 1 not to insist upon replacement of the Vehicles of the petitioners, and issue authorisation under the Motor Vehicles (National permit) Rules, 1975, read with Rule 88 of 1989, Rules;*
- (ii) *that a writ of certiorari be issued striking down rule 6 of the Motor Vehicles (National permit) Rules, 1975, as amended; and Rule 88 of Central Motor Vehicle Rules 1989;*
- (iii) *that any other appropriate writ, direction or order, as deemed fit in the circumstances of the case be issued;*
- (iv) *that filing of certified copies of the annexures be dispensed with, and the photo copy be allowed to be filed;*
- (v) *that the costs of this petition be awarded.*

H. S. Sawhney and S. S. Rana, Advocates, for the Petitioners.

Gulshan Sharma, Advocate, for Respondent No. 1.

Ashutosh Mohanta, Advocate, for Respondent No. 2.

JUDGMENT

S. S. Sodhi, J.

(1) The challenge here is to the constitutional validity of rule 6 of the Motor Vehicles (National Permit) Rules, 1975, as amended by the Central Motor Vehicles Rules, 1989, rendering transport vehicles more than nine years' old, ineligible for grant of national permits and such permits granted, becoming invalid from the date, the vehicle covered by it completes nine years from its initial registration.

(2) The petitioners—Jagtar Singh and others were granted National Permits by the Chandigarh Administration under the 1975

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Rules and they held authorization there under till September 30, 1988. When, however, they applied for extension of such authorization, they were refused it on the ground that their vehicles covered by the National Permits were more than nine years' old. Rule 88 of the 1989 Rules, being cited against them.

(3) In seeking to assail the denial of National Permits on the ground that the vehicles were more than nine years old, the main stress of Mr. H. S. Sawhney, counsel for the petitioners was upon the provisions of section 56 of the Motor Vehicles Act, 1988, prescribing the carrying of a essential precondition for the grant of such permits. The argument being that in the face of the requirement that the motor vehicle must have a certificate of fitness, fixing of the age of the vehicles as a further condition for the grant of continuance of National Permits constituted an arbitrary and unreasonable restriction was thus violative of Articles 14 and 19 of the Constitution of India.

(4) Further, it was sought to be contended that the rule fixing the age of the vehicles, for purposes of grant or continuance of National Permits, was beyond the ambit of the Act, inasmuch as, no such age had been fixed by any of its substantive provisions.

(5) The issues raised, however, stand covered now by judicial precedents. The question regarding the age of motor vehicles, in the context of the grant of permits, came up for consideration before the Supreme Court in *Subhash Chandra and others v. State of Uttar Pradesh and others* (1). The matter there concerned Contract Carriage Permits for mini buses. One of the conditions for the grant of such permit being that the vehicle must not be more than seven years old. The imposition of this condition was upheld with the observation, "from the point of view of 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. "A plea had also been raised there founded upon the issuance of a certificate of fitness. This was repelled with the observation, "there was 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 model". This condition was described as, "an extra measure, a further insurance against machine failure and cannot contradict the 'fitness' provision."

(1) A.I.R. 1980 S.C. 800.

(6) The law, as laid down in *Subhash Chandra's case* (supra) still holds the field and it was in fact followed and approved by the Supreme Court in *S. K. Bhatia and others v. State of U.P. and others* (2) and by the High Court of Karnataka in Civil Writ petition 9988 of 1990 (*D. P. Sharma v. Union of India*) (3), decided on August 21, 1990.

(7) It would also be pertinent to advert to the judgment of the High Court of Delhi in Civil Writ Petition 916 of 1990 (*V. K. Nagpal v. Union of India*), decided on July 24, 1990, where the challenge to rule 6 of 1975 Rules, as amended by the 1989 Rules, as being violative of Article 14 of the Constitution, was specifically repelled.

(8) Such thus being the settled position of law, rule 6 of the 1975 Rules, as amended by the 1989 Rules cannot but be held to be constitutionally valid and therefore the condition regarding denial of National Permits to vehicles more than nine years' old or such permits becoming invalid from the date of the vehicle covered by it, completes nine years from its initial registration, is clearly valid and legal.

(9) This writ petition is accordingly hereby dismissed. In the circumstances, however, there will be no order as to costs.

R.N.R.

Before : I. S. Tiwana, J.

UCO BANK, SARANI, CALCUTTA HAVING ITS BRANCH OFFICE IN JALANDHAR & ANOTHER,—Petitioners.

versus

SUKHWANT SINGH,—Respondents.

Civil Revision No. 1491 of 1990.

4th December, 1990.

Indian Evidence Act of 1872—S. 124—Privilege—Bank claiming privilege from production of certain documents from the record of enquiry file—Divisional Manager of Bank is not a public officer—Privilege not claimed in his official capacity—Bank not entitled to protection of S. 124.

(2) A.I.R. 1983 S.C. 988.

(3) C.W.P. No. 9988 of 1990 decided on 21st August, 1990 of Karnataka High Court.