

CASE NO.:
Appeal (crl.) 74 of 2000

PETITIONER:
STATE OF MAHARASHTRA AND ORS.

RESPONDENT:
NANDED PARBHANI Z.L.B.M.V., OPERATOR SANGH

DATE OF JUDGMENT: 21/01/2000

BENCH:
G.B. PATTANAIK & U.C. BANERJEE

JUDGMENT:
JUDGMENT

2000 (1) SCR 357

The Judgment of the Court was delivered by

PATTANAIK, J. Leaved granted.

This appeal by special leave is directed against the judgment of the division Bench of Bombay High Court, Bench at Aurangabad in Criminal Writ Petition No. 362 of 1998. The High Court has held that when a luxury bus carries passengers, excess in number than allowed by the permit, there is a contravention of terms and conditions of the permit, yet however such contravention does not authorise a police officer to detain and seize the vehicle in exercise of powers under Section 207(1) of the Motor Vehicles Act and, therefore such detention and seizure must be held to be unauthorised and illegal. The said conclusion and the compensation to the tune of Rs, 10,000 having been awarded, the State of Maharashtra is in appeal against the same.

The association of the owners of the luxury buses in the districts of Nanded and Parbhani, moved the High Court in a petition under Article 226 of the Constitution, alleging that the police authorities illegally seized the vehicles of the members of the association in purported exercise of the powers under Section 207 of the Motor Vehicles Act on the ground that the buses were found to be carrying persons in excess of the number permitted by the authorities in the conditions of permit though Section 207 does not authorise for such detention. It was accordingly prayed to declare such seizure and detention of the vehicles to be illegal and to award compensation. The State and the police authorities filed their returns before the High Court, contending inter alia that under Section 207(1) of the Act, the appropriate authority is entitled to seize and detain the vehicle if the vehicle in question is found to have violated any of the conditions of the permit and since permit itself contemplates a specified number of persons to be carried in the vehicle, the vehicle could be legally seized when it is found to be carrying more than the numbers specified in the permit and, therefore, the seizure and the detention of the vehicle cannot be said to be illegal or unauthorised. The High Court by the impugned judgment analysed different provisions of the Motor Vehicles Act and the Rules framed thereunder and on consideration of the same, came to the conclusion that it is not each and every violation of the conditions of the permit which would authorise the seizure and detention of the vehicle under Section 207(1) of the Act. On the other hand it is only when the conditions of permit relating to the area, the route or the purpose for which the vehicle is used, on being violated, the vehicle could be detained and, therefore, detention or seizure of a vehicle on the allegation, that vehicle was found to be carrying passengers more than the number provided in the permit is not authorised under sub-section (1) of Section 207 of the Act and consequently, such detention being unauthorised, the persons concerned are entitled to compensation.

The short question that arises for consideration is whether under sub-section (1) of Section 207 of the Act, the appropriate authority can be said to have the power to detain a vehicle, the vehicle being found to be used in contravention of the conditions of permit relating to the number of passengers which could be carried in the vehicle.

The learned counsel appearing for the State vehemently contended that the permit itself having provided for the number of passengers to be carried in the vehicle, when passengers excess in number than allowed for, is found to have been carried in the vehicle, it amounts to contravention of conditions of permit and, therefore, contravention of the conditions of permit would authorise the appropriate authority to detain the vehicle under Section 207(1) of the Act. According to the learned counsel, the expression "conditions of permit" used in sub-section (1) of Section 207 should not be given any restrictive meaning, particularly when it is highly dangerous to carry passengers in excess of the numbers provided for in the permit and if such contravention will not justify detention of the vehicle under Section 207(1), then the power conferred thereunder would be meaningless and, therefore, Court should interpret the provisions confer-ring such power on the authorities even at the cost of doing violence to the language used in sub-section (1) of Section 207, which would be in the larger public interest.

The learned counsel appearing for the respondent, on the other hand contended that the plain grammatical meaning to the word used in sub-section (1) of section 207 if is ascribed, then it would be apparent that only the conditions of permit relating to the route on which or the area in which or the purpose for which a vehicle is used can be considered for the purpose of ascertaining whether there has been any contravention in respect of the said field and only when it is found that there has been a contravention in the said field, then the power to detain the vehicle under Section 207(1) can be exercised and not otherwise. That being the position, the High Court was fully justified in its conclusion that contravention of the condition of permit relating to the number of passengers to be carried in the vehicle will not authorise the detention of the vehicle under Section 207(1) of the Act. According to the learned counsel for the respondent the meaning of a statute has to be ascertained from the language used by the legislature and the Court need not make a fresh legislation in the field where the meaning is unambiguous and clear from the words used.

Section 207(1) of the Act is extracted herein below in extenso :

"207. Power to detain vehicle used without certificate of registration permit, etc.

(1) Any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of Section 3 or Section 4 or Section 39 or without the permit required by sub-section (1) of Section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, seize and detain the vehicle, in the prescribed manner and for this purpose take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle.

Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used in contravention of Section 3 or Section 4 or without the permit required by sub-section (1) of Section 66 he may, instead of seizing the vehicle seize the certificate of registration of the vehicle and shall issue an acknowledgment in respect thereof."

The aforesaid power of seizure has been conferred upon the appropriate

authority, which power is in fact a sovereign power of the State and has been delegated to the police officer in discharge of their duties of law enforcement and in the enforcement of an orderly society. The power, therefore, is required to be exercised with care and caution and the power has to be exercised only when the pre-condition for exercise of power is fully satisfied. It is a cardinal principle of rule of construction of statute that when the language of a statute is fairly and reasonably clear, then inconvenience or hardships are no considerations for refusing to give effect to that meaning. It is not the contention of the learned counsel, appearing for the State nor can it be said that on giving a plain meaning to the words used in Section 207(1) of the Act, there will be any absurdity or would make the statute offending any provisions of the Constitution. Tindal, C.J, in *Sussex Peerage case* (1844) 11 Cl & F 85, p. 143, applying the rule has stated - "If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the lawgiver". In *Emperor v. Benoarlal Sarma*, AIR (1945) PC 48, p. 53, Viscount Simonds held : "this Board has insisted that in construing unambiguous words, we are not concerned with the policy involved or with the results, injurious or otherwise, which may follow from giving effect to the language used". In *Kanailal Sur v. Param-nidhi Sadhu Khan*, AIR (1957) SC 907, p. 910, Gajendragadkar, J. as he then was, held : "If the words used are capable of one construction only then it would not be open to the courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act". The intention of the legislature is required to be gathered from the language used and, therefore, a construction, which requires for its support with additional substitution of words or which results in rejection of words as meaningless has to be avoided. Bearing in mind, the aforesaid principles of construction of statute and on examining the provisions of Section 207 of the Act, which has been quoted earlier, we have no doubt in our mind that the police officer would be authorised to detain a vehicle, if he has reason to believe that the vehicle has been or is being used in contravention of Section 3 or Section 4 or Section 39 or without the permit required under sub-section (1) of Section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used. In the case in hand, we are not concerned with the contravention of Section 3 or Section 4 or Section 39 or sub-section (1) of Section 66 and we are only concerned with the question of contravention of the condition of permit. Reading the provisions as it is, the conclusion is irresistible that the condition of permit relating to the route on which or the area in which or the purpose for which the vehicle could be used if contravened, would only authorise the police officer to detain the vehicle and not each and every condition of permit on being violated or contravened, the police officer would be entitled to detain the vehicle. According to the learned counsel, appearing for the State of Maharashtra, the expression "purpose for which the vehicle may be used" could be construed to mean that when the vehicle is found to be carrying passengers more than the number prescribed in the permit, the purpose of user is otherwise. We are unable to accede to this contention as in our opinion, the purpose would only refer to a contingency when a vehicle having a permit of stage carriage is used as a contract carriage or vice versa or where a vehicle having a permit for stage carriage or contract carriage is used as a goods vehicle and vice versa. But carrying passengers more than the number specified in the permit will not be a violation of the purpose for which the permit is granted. If the legislature really wanted to confer power of detention on the police officer for violation of any condition of the permit, then there would not have been the necessity for adding the expression "relating to the route on which or the area in which or the purpose for which the vehicle may be used". The user of the aforesaid expression cannot be ignored nor can it be said to be a tautology. We have also seen the Form of permit (Form P.Co. T.), meant in respect of a tourist vehicle, which is issued under Rule 72(1)(ix) and Rule 74(6) of the Maharashtra Motor Vehicles Rules, 1989. On

seeing the different columns, we are unable to accede to the contention of the learned counsel appearing for the State of Maharashtra, that carrying passengers beyond the number mentioned in Column 5, indicating the seating capacity, would be a violation of the conditions of permit relating to either the route or the area or the purpose for which the permit is granted. In this view of the matter, we see no infirmity with the conclusion arrived at by the High Court in the impugned judgment and the detention of the vehicles has rightly been held to be unauthorised and consequently, the compensation awarded cannot be said to be without jurisdiction. This appeal, therefore, fails and is dismissed but in the circumstances there will be no order as to costs.

JUDIS