

Ram Naresh Singh Vs. the State of Bihar and ors.

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Court : Patna

Decided On : Mar-14-2000

Judge : Ravi S. Dhavan, C.J. and Aftab Alam, J.

Acts : [Motor Vehicles Act, 1988](#) - Sections 133; Bihar Motor Vehicles Rules, 1992 - Rule 91

Appeal No. : C.W.J.C. No. 7000 of 1998

Appellant : Ram Naresh Singh

Respondent : The State of Bihar and ors.

Advocate for Def. : Amarnath Singh, Standing Counsel

Advocate for Pet/Ap. : Ganesh Prasad Singh, K.K. Jha, P.K. Singh, N.P. Singh and A.K. Singh, Advs.

Disposition : Petition allowed

Judgement :

Ravi S. Dhavan, C.J. and Aftab Alam, J.

1. The petitioner is operating a private vehicle for commercial purposes and is using it for plying passengers between Bakhtiyarpur, in the District of Patna, and Harnaut, in the district of Nalanda.

2. In this writ petition, he seeks to challenge an order, dated 18-6-1998 (Annexure 1) issued by the Sub-divisional Officer, Barh-cum-Chairman, Notified Area Committee, Bakhtiyarpur, Patna. By the Impugned order the Sub-divisional Officer has declared a piece of land, described in the order, as the Taxi stand for Bakhtiyarpur and has taken steps for its settlement for collection of tolls etc. By the same order, the Sub-divisional Officer has fixed the rates of tolls payable by different kind of vehicles, Other conditions for the use of the Taxi stand have also been laid down.

3. The grounds on which the petitioner first place it is submitted that following the 74th amendment in the Constitution, Section 388 of the Bihar & Orissa Municipal Act which empowered the Government to constitute a Notified Area Committee was deleted by Section 24 of Ordinance No. 13 of 1994 introduced with effect from 30-5-1994. The aforesaid Ordinance was succeeded by a series of ordinances till the ordinances were finally replaced by Act 2 of 1995, deleting Section 388 of the Bihar & Orissa Municipal Act. Consequent upon the deletion of the provision being the basis for constituting Notified Area Committee, there was no longer any notified area for Bakhtiyarpur in the eyes of law and no order of the kind coming under challenge in this writ petition could, therefore, be issued by the Sub-divisional Officer in his capacity as Chairman of the Notified Area Committee. Reliance in support of the submission is placed upon a decision of this Court in *Dwarika Nath Prasad v. State of Bihar* (1999) 3 Pat LJR 718.

4. The impugned order is also challenged on the ground that under Rule 91(ii) of the Bihar Motor Vehicle Rules, 1992 the power to prescribe fees to be paid by the owners of public service vehicles using a stand was given to the Regional Transport Authority and the impugned order issued by the Sub-divisional Officer was, therefore, lacking in jurisdiction and authority. Reliance in support of the submission is placed on a decision of this Court in *Dinesh Kumar Yadav v. The State of Bihar* (1999) 3 Pat LJR 130 : (AIR 1999 Patna 213).

5. On hearing counsel for the parties and

on going through the writ petition and the counter-affidavit, this Court finds that both the objections are well founded and are fit to be accepted. The impugned order is accordingly set aside. But following the decision in the case of Dinesh Kumar Yadav (AIR 1999 Patna 213) (supra) the Regional Transport Authority is directed to designate a Taxi stand at Bakhtiyarpur. It is expected that the Authority will take appropriate steps in accordance with law and pass necessary orders expeditiously. Needless to say that the stand will be designated in the manner as provided under Rule 191 of the Bihar Motor Vehicle Rules, 1992, i.e. either by notification in the official gazette or by erection of traffic signs as indicated in the rule.

6. In the result this writ petition is allowed but subject to the observations made above.

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