

Delhi High Court

C. Rajaram, Advocate & Anr. vs Gncf Of Delhi & Ors. on 20 April, 2012

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 20th April, 2012

+ W.P.(C) No.8408/2011

% C. RAJARAM, ADVOCATE & ANR.Petitioners
Through: Mr. Amit Khanna, Adv.

Versus

GNCT OF DELHI & ORS. Respondents
Through: Mr. N. Waziri, Advocate for
GNCTD.
Mr. Sandeep Sethi, Sr. Adv. with Mr.
Vipin Singhania, Adv. for applicant /
intervenor.

CORAM :-

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

JUDGMENT

RAJIV SAHAI ENDLAW, J.

1. This petition filed in public interest avers that the various authorized car dealers in Delhi impleaded as respondents No.3 to 70, who have also been authorized to register the vehicles sold by them, are in violation of the instructions / guidelines of the respondent No.2 Transport Department, GNCT of Delhi in coercing the purchasers to pay amounts over and above the registration charges which they have been authorized to collect. Notice of the petition was in the first instance issued to the respondent No.1 GNCTD and the respondent No.2 Transport Department only and they were directed to inform whether such practice existed and if so, the steps being taken to curb the same.

2. Upon the counsel for the respondents No.1&2 not getting any instructions, the personal appearance of Commissioner (Transport) and Deputy Commissioner (Operations) was directed. Though no notice to the other respondents was issued but the Automobile Traders Association of Delhi stated to be representing most of the car dealers / car manufacturers impleaded as respondents No.3 to 70, applied for intervention and was allowed to intervene.

3. The respondent No. 2 i.e. the Transport Department of GNCTD in its counter affidavit has stated:

(i) That the erstwhile system of registration of vehicles under the Motor Vehicles Act, 1988 and Delhi Motor Vehicles Rules 1993 at the select few offices of Motor Licencing Authorities was changed in the year 1996 for the convenience of the public by permitting the vehicle dealers to register the vehicles under Rule 30(2) of the Delhi Motor Vehicles Rules;

(ii) Accordingly 124 vehicle dealers were given licences under Rule 35 of Central Motor Vehicles Rules, 1989 to register the vehicles on behalf of the Transport Department of the GNCTD;

(iii) This has resulted in immense convenience for the vehicle buyers in registration of the vehicles;

(iv) That the said dealers are not to charge the vehicle registrants any amount more than the price of the vehicle registration charges and road tax etc. and are required to and give an undertaking to the Government as under:

"1. We will not charge not more than the price of the vehicle and registration charges and road tax etc.

2. We will not charge any other charges / fee like handling charges / service charges."

(v) That the said dealers are required to charge a tax on all motor vehicles under Section 3 of the Delhi Motor Vehicles Taxation Act, 1962 on the cost of manufacturing and excise duty plus sales tax of the motor vehicle without allowing any cash or trade discount;

(vi). That in addition, the dealers are also to collect the registration fee under Rule 81 of the Central Motor Vehicles Rules, 1989;

(vii) That the dealers are also to collect the municipal parking charges as specified in F13/01/2003/UD/4941/1026 dated 12.07.2006;

(viii) That the department has been taking out public notices cautioning the public as under:

"All intending buyer of vehicles are also further advised not to pay any service / handling / miscellaneous charges, etc. apart from taxes / fees mentioned above for registration of their vehicles."

4. The Automobile Traders Association of Delhi in their counter affidavit have stated that the dealers are charging the registrants only the registration fee, road tax and municipal parking charges (supra); that the handling charges / logistic charges to which objection is taken by the appellant are not related to registration of vehicles but are towards stockyard services / warehousing charges, driving costs in terms of fuel consumed and people engaged, fuel given following delivery, transit risk insurance from stockyard to dealer's showroom, polishing and / or waxing and towards other handling costs and have nothing to do with the collection by the said dealers of the registration fee, road tax and municipal parking charges.

5. The petitioners have filed a rejoinder controverting the averments in the counter affidavit of the intervener.

6. We have heard the counsels for the parties. We have at the outset enquired whether purchaser of a vehicle is bound to have the vehicle registered through the dealer from whom he is purchasing the vehicle or has the liberty to have the vehicle registered from the office of the licencing authority. We are told that there is no such binding and it is open to the purchaser of vehicle to not register the vehicle through the dealer from whom he has purchased the vehicle but register it with the Office of the Licencing Authority.

7. We have next enquired as to what is the locus / authority / right of the Transport Department of GNCTD to intervene in the transaction between the vehicle dealer and the purchaser of a vehicle and qua the charges / price which may be charged by the dealer. No authority / locus of the respondents No.1 and 2 in this regard has been shown.

8. The respondents No.1&2 Transport Department / GNCTD while empowering the vehicle dealers to also register the vehicles are to only ensure that no service charges, commission etc. 'for such registration' are charged and the respondents No.1&2 otherwise are not concerned with the transaction of sale by the dealer to the purchaser.

9. The position which emerges is that while the petitioner avers that the 'extras' so charged by the dealers are for providing the services of registration and which the dealers are not entitled to charge, the dealers deny the extras to be on account of providing the services of registration and claim the same to be on other accounts. The respondents No.1&2 as aforesaid have no authority to intervene in the charge by the dealers even if illegal of the said extras so long as they are not on account of commission or for providing service of registration. The said question thus becomes a question of fact to be adjudicated on a case to case basis and no general direction with respect thereto can be issued in this public interest litigation. The petitioners who are themselves advocates have of course demonstrated that upon the petitioners issuing legal notice in this regard a particular dealer has refunded the amount so claimed but the same cannot be indicative of any illegal practice being followed and cannot lead to a general direction. It is well nigh possible that considering the meager amount involved, that particular dealer may not have wanted to battle with an advocate and chose to refund the amount.

10. The undertakings aforesaid obtained by the respondents No.1&2 Licencing Authority from the dealers though being widely worded, cannot come in the way of the dealers charging the extras for extra services rendered in connection with sale and which the respondents No.1&2 are not empowered to control / regulate. Notice may also be taken of the fact that in today's day of aggressive marketing of vehicles and multifarious choices available to the purchasers / consumers, the vehicle dealers giving discounts are not unknown (as also evident from the respondents No.1&2 making a provision (supra) to that effect) and it is generally seen that the purchasers of vehicles are in a bargaining position with the dealers. If the vehicle dealers are providing any extras in terms of services, goods, fuel etc. to the purchasers and the purchasers agree to pay therefor, in the absence of any law to control the same, this Court cannot issue any direction with respect thereto.

11. We accordingly dispose of this writ petition with the direction that in the event of the respondents No.1&2 Transport Department / GNCTD receiving any complaint of any vehicle dealer charging anything extra / commission from the vehicle purchaser for providing the services of registration, the respondents No.1&2 shall enquire into the said complaint and if find any merit therein, shall take action in accordance with law against such vehicle dealers.

No order as to costs.

RAJIV SAHAI ENDLAW, J ACTING CHIEF JUSTICE APRIL 20, 2012 'gsr'