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further rights they may have against the Nawab or his estate.

(4) After this has been done, the Custodian, U. P., will be at liberty to withdraw the balance of the Rs. 62,000.

Except for these modifications, the decree stands and the rest of the appeal is dismissed.

The modifications we have made here do not affect the plaintiff's rights under the decree except to his advantage. As against him, the appellants have failed. We accordingly direct that the appellants pay the plaintiff the costs of this appeal.

There is an application for amendment of the High Court's decree. This will be disposed of by the High Court.

Decree of High Court modified.

Agent for the appellant: *B. P. Maheshwari.*

Agent for respondent No. 1: *N. C. Jain.*

Agent for the Custodian of Evacuee Property, U.P.: *C. P. Lal.*

Appeal dismissed.

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Nov. 24.

HARMAN SINGH AND OTHERS
v.
REGIONAL TRANSPORT AUTHORITY, CALCUTTA, AND OTHERS.

[PATANJALI SASTRI C. J., MEHR CHAND MAHAJAN, S. R. DAS, GHULAM HASAN and JAGANNADHADAS JJ.]

Constitution of India, arts. 14, 19(1)(g)—Issuing permits to smaller taxis and fixing lower tariff for them—Whether infringes fundamental right of existing permit holders to carry on occupation or to equal protection of the laws—Right to carry on occupation—Extent of the right.

Since 1940 taxis plying in the streets of Calcutta were required to be not below 22 H.P. and not above 30 H. P. and rule 179 of the Bengal Motor Vehicles Rules as amended in 1944 fixed a minimum charge of one rupee for the first mile and 2 as. for every one-sixth of each subsequent mile. In 1952 the Regional Transport Authority issued a notification inviting applications for permits to ply small taxis of not below 10 H. P. and not above

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19 H. P. and a proviso was added to rule 179 that in the case of such small taxis the tariff shall be 8 as. for the first mile and 2 as. for every quarter of each subsequent mile. The permit holders of the bigger taxis applied to the High Court under art. 226 of the Constitution for a writ restraining the Regional Transport Authority from giving effect to the notification and issuing permits to small taxis, on the ground that the notification infringed their fundamental rights guaranteed by art. 19(1)(g) and art. 14 of the Constitution:

Held, (i) that the introduction of small taxis and the fixing of a lower tariff for them was based on a rational classification and there was no contravention of art. 14 of the Constitution; (ii) as the permit holders of bigger taxis were not prevented from carrying on their occupation and to ply their taxis, there was no infringement of art. 19(1)(g) of the Constitution, and a writ as prayed for against the Regional Transport Authority could not be granted.

Article 19(1)(g) does not guarantee a monopoly to a particular individual or association to carry on any occupation and if other persons are also allowed to carry on the same occupation and an element of competition is introduced, that does not, in the absence of bad faith on the part of the authorities, amount to a violation of the fundamental right guaranteed under art. 19(1)(g).

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 112 of 1953.

Appeal under article 132(1) of the Constitution of India from the Judgment and Order dated the 9th January, 1953, of the High Court of Judicature at Calcutta (Himansu Kumar Bose J.) in Civil Revision No. 2754 of 1952.

R. Choudhry and *A. K. Das Gupta* for the appellants.

M. C. Setalvad, Attorney-General for India (*B. Sen*, with him) for respondents Nos. 1 and 2.

1953. November 24. The Judgment of the Court was delivered by

MAHAJAN J.—This appeal under article 132(1) of the Constitution of India is directed against a judgment of the High Court of Calcutta (H. K. Bose J.) dated the 9th January, 1953, dismissing an application under article 226 of the Constitution.

The facts giving rise to the appeal are these: By a notification dated 13th May, 1952, the Regional Transport Authority, Calcutta Region, invited applications

from persons who had licences for driving motor cabs, or who possessed knowledge of motor mechanism, for the issue of permits for small motor taxi cabs of not below 10 H. P. and not above 19 H. P. The said notification also invited representations against the issue of such permits. A number of associations and persons including the Calcutta Taxi Association and the Bengal Taxi Association, accordingly made representations objecting to the issue of such permits. These objections were heard by the Regional Transport Authority on 5th July, 1952, and were ultimately rejected on 21st August, 1952, and 48 permits for small taxis were issued.

Since the coming into force of the Motor Vehicles Act in the year 1940 taxis plying in the streets of Calcutta were required to be of not below 22 H. P. and not above 30 H. P. Rule 179 of the Bengal Motor Vehicles Rules prescribed the tariff for all such taxis. This rule was in these terms:—

"A single tariff shall be charged at the rate of two annas for every quarter of a mile. Minimum charge shall be eight annas. The tariff shall be in force night and day within the following boundaries....."

In the year 1944 in view of the rise in the prices of motor parts, tyres, accessories, oil lubricants, petrol etc., rule 179 was amended and the amended rule reads as follows:—

"A minimum charge of one rupee for the first mile or part thereof and annas two for every one-sixth of each subsequent mile. Waiting charges Re. 1-14-0 per hour or annas 2 for every 4 minutes. All charges to be shown on the meter. Cabs returning empty to be paid annas 4 per mile up to the boundary."

This increased rate of tariff was maintained by a further notification issued on 13th January, 1951.

After the issue of the notification in May, 1952, inviting applications for permits to ply small taxis, a further notification was issued on the 7th June, 1952, amending rule 179 of the Bengal Motor Vehicles Rules. This notification was in these terms:—

"In exercise of the power conferred by section 51 of the Motor Vehicles Act, 1939, the Governor is pleased

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to make the following amendment to the rule published under the notification of the Government of Bengal in the Home (Transport) Department No. 9354-T dated the 28th September, 1946, as subsequently amended, namely :—

To the said rule add the following proviso :—

" Provided that in the case of small motor cabs of not exceeding 19 H. P., but not below 10 H. P., registered under the Motor Vehicles Act, 1939, in the city of Calcutta or in the district of 24 Parganas the tariff on each occasion of hiring shall for a period of 8 months with effect from 1st May, 1952, be annas 8 for the 1st mile or part of a mile and annas 2 for every quarter of each subsequent mile."

The result of this notification was that the tariff for small taxis was fixed at the rate of eight annas for the first mile or part of a mile and 2 annas for every quarter of each subsequent mile, while the tariff for large taxis remained as before, namely, one rupee for the first mile and 2 annas for every one-sixth of each subsequent mile. This disparity between the tariffs of small and big taxis introduced an element of competition among the taxi owners and created an apprehension in the minds of large taxi owners that their occupation would be seriously affected by the introduction of small taxis plying on cheaper fares. The appellants therefore on 21st October, 1952, filed a petition in the High Court of Calcutta under article 226 of the Constitution against the Regional Transport Authority and the 48 permit holders praying for a writ of prohibition restraining the Regional Transport Authority from giving effect to the notification of the 7th June, 1952, and from permitting or authorising small taxis to ply in the streets of Calcutta on the allegation that this notification violated the fundamental rights guaranteed to them under articles 19(1)(g) and 14 of the Constitution.

The High Court of Calcutta by its order dated 24th October, 1952, granted a rule and passed an *ad interim* order against the respondents in terms of the prayer in the appellant's petition. The rule then came up for hearing before H. K. Bose J. and by his judgment

under appeal dated 9th January, 1953, the learned Judge dismissed the petition with costs. It was held that the circumstance that the notification dated 7th June, 1952, might or might not have the effect of affecting economically the business of taxi cab owners would not justify the court in holding that the notification was in violation of article 19(1)(g) of the Constitution. It was further held that there was no violation of the fundamental right guaranteed under article 14 of the Constitution because the fixation of tariff regarding the two classes of taxis was based on rational classification. The learned Judge was of the opinion that small taxis had been introduced for the benefit of the general public and that there was no unreasonableness in classifying the tariff in the manner it had been done. The learned Judge, however, granted a certificate under article 132(1) of the Constitution.

Mr. Choudhry, who argued the appeal before us, reiterated the contentions that had been raised before the High Court and laid great emphasis on the point found in his favour by Bose J. that it was not open to the owners of large taxis to charge tariff at a rate lower than the prescribed minimum and contended that in that situation the occupation of the proprietors of large taxis was bound to come to a standstill and as such the notification amounted to a breach of their fundamental right guaranteed under article 19 (1) (g) of the Constitution. In our opinion, none of the contentions raised by the learned counsel have any substance. Without in any way finally deciding the question of the true construction of rule 179 of the Bengal Motor Vehicles Rules, read with the provisions of section 42 of the Motor Vehicles Act, because it does not directly arise here, as at present advised, we cannot affirm the view of Bose J., that it is not open to the large taxi owners to charge tariff at a rate lower than that prescribed if they so desire. The learned Attorney-General who appeared for the Regional Transport Authority shared our tentative view on this point, though he was not prepared to concede the point in the absence of specific instructions. The learned Advocate-General also took more or less the same line in his argument

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before the High Court. Section 42 of the Motor Vehicles Act enjoins that the owner of a motor vehicle shall not use or permit the use of the vehicle save in accordance with the conditions of a permit. The form of the permit in item 8 mentions the minimum fare that can be charged in respect of a vehicle. On these provisions the learned Judge below reached the conclusion that there was no option left in the owner of a vehicle to charge tariff lower than the prescribed minimum. Rule 179, however, which prescribes the minimum tariff for the different classes of taxis does not prohibit the charge of a rate below the prescribed minimum if the taxi owner so wishes. All that it enjoins is that a tariff higher than the fixed minimum cannot be charged and that the hirer of a taxi on demand is bound to pay at that rate. In the absence of a clear provision in the rule prohibiting the charge of tariff below the the prescribed minimum, we are not satisfied that the construction placed on these provisions by Bose J. is correct. Be that as it may, the rule prescribing a minimum rate of one rupee in respect of big taxi cabs by notifications issued in 1944 and 1951 is not in challenge in these proceedings. If that rule is an unreasonable restriction on the occupation of large taxi cab owners and infringes the fundamental right contained in article 19(1)(g) of the Constitution, it was open to them to challenge the *vires* of that rule; but that not having been done, that question does not concern us here.

The only point for consideration in the appeal is whether the issue of licences to small taxi cabs between 10 and 19 H.P. to ply in the streets of Calcutta and the fixation of lower rates of tariff for this class of taxis than that prescribed for taxis between 22 and 30 H.P. violates the fundamental rights of the appellants who are owners of taxi cabs between 22 and 30 H.P., under articles 14 and 19 (1)(g) of the Constitution. In our judgment, this question can be answered only in the negative. It has been repeatedly pointed out by this court that in construing article 14 the courts should not adopt a doctrinaire approach which might well choke all beneficial legislation and that legislation

which is based on a rational classification is permissible. A law applying to a class is constitutional if there is sufficient basis or reason for it. In other words, a statutory discrimination cannot be set aside as the denial of equal protection of the laws if any state of facts may reasonably be conceived to justify it. It is clear that it is in the interests and for the benefit of a section of the public that small taxis have been introduced and cheaper rates have been fixed having regard to the size, horse power and expenses of running such cars. We are unable to see any unreasonableness in this classification or any discrimination which infringes the provisions of article 14 of the Constitution. The contention of Mr. Choudhry, therefore, that the introduction of smaller taxis at lesser tariff rates contravenes article 14 of the Constitution cannot be upheld.

The next contention of Mr. Choudhry that the introduction of small taxis in the streets of Calcutta will bring about a total stoppage of the existing motor taxi cab business of large taxi owners in a commercial sense and would thus be an infringement of the fundamental right guaranteed under article 19 (1)(g) of the Constitution is again without force. Article 19 (1)(g) declares that all citizens have the right to practise any profession, to carry on any occupation, trade or business. Nobody has denied to the appellants the right to carry on their own occupation and to ply their taxis. This article does not guarantee a monopoly to a particular individual or association to carry on any occupation and if other persons are also allowed the right to carry on the same occupation and an element of competition is introduced in the business, that does not, in the absence of any bad faith on the part of the authorities, amount to a violation of the fundamental right guaranteed under article 19(1)(g) of the Constitution. Under the Motor Vehicles Act it is in the discretion of the Regional Transport Authority to issue permits at different rates of tariff to different classes of vehicles plying in the streets of Calcutta and if that power is exercised in a *bona fide* manner by the Regional Transport Authority for the benefit of the citizens

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of Calcutta, then the mere circumstance that by grant of licence at different tariff rates to holders of different taxis and different classes of vehicles some of the existing licence holders are affected cannot bring the case under article 19(1)(g) of the Constitution.

For the reasons given above this appeal has no merits and we accordingly dismiss it with costs.

Appeal dismissed.

Agent for the appellant : *Sukumar Ghose.*

Agent for respondents Nos. 1 & 2 : *P. K. Bose.*

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Nov. 24.

THE STATE OF WEST BENGAL

v.

SHAIKH SERAJUDDIN BATLEY.

UNION OF INDIA : INTERVENER

[PATANJALI SASTRI C. J., MEHR CHAND MAHAJAN, S. R. DAS, GHULAM HASAN and JAGANNADHADAS JJ.]

Indian Independence (Rights, Property and Liabilities) Order, 1947, Arts. 8(2), 9—Rent payable by Province of Bengal before 15th August, 1947—Purpose of lease exclusive purpose of West Bengal —Liability of West Bengal—"Financial obligations," interpretation of—Object of Art. 9.

The liability to pay rent under a lease does not come within the expression "financial obligations" in article 9 of the Indian Independence (Rights, Property and Liabilities) Order, 1947.

The Province of Bengal took certain premises on lease on the 6th February, 1947, agreeing to pay a monthly rent of Rs. 1,800 and the purposes for which the lease was entered into were, after 15th August, 1947, exclusively purposes of the Province of West Bengal : *Held*, that the liability to pay rent was not a "financial obligation" contemplated by article 9 and the Government of West Bengal was liable under article 8(2)(a) of the abovesaid order to pay the rent which had accrued up to the 15th August, 1947.

Province of West Bengal v. *Midnapur Zemindari Co., Ltd.* (54 C. W. N. 677), *Sree Sree Iswar Madan Gopal Jiu* v. *Province of West Bengal* (54 C. W. N. 807) and *The State of Punjab* v. *L. Mohanlal Bhayana* (A. I. R. 1951 Punj. 382) referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 119 of 1951.

Appeal by special leave granted by the Supreme Court of India by its Order dated 14th December,