

[STAVRINIDES, J.]

1972
May 13

IN THE MATTER OF ARTICLE 146 OF THE
CONSTITUTION

NICOLAS
KYRIACOU
MILIOTIS

NICOLAS KYRIACOU MILIOTIS,

v.

THE REPUBLIC
(MINISTER
OF INTERIOR)

Applicant.

and

THE REPUBLIC OF CYPRUS, THROUGH
THE MINISTER OF INTERIOR IN HIS CAPACITY
AS THE REGISTRAR OF MOTOR VEHICLES,

Respondent.

(Case No. 470/71).

Motor Vehicles—Licence—First proviso to paragraph 2B of Part I of the Schedule to the Motor Vehicles and Road Traffic Law, Cap. 332, as this Schedule is set out in section 4 of Law No. 2 of 1962 and was amended by section 2(c) of Law No. 4 of 1964 and section 2(6) of Law No. 3 of 1965—Said proviso held not to be contrary to Article 8 of the Constitution.

“Degrading treatment”—No person shall be subjected to such treatment—Article 8 of the Constitution—Paragraph (a) of the aforesaid proviso (supra) not contrary to the provisions of Article 8 of the Constitution.

Constitutional law—Constitutionality of statutes—“Degrading treatment”—Article 8 of the Constitution—Paragraph (a) of said proviso (supra) not unconstitutional.

The full text of the aforesaid proviso as well as the full facts of this case appear in the judgment of the Court, whereby it declared that paragraph (a) of said proviso is not contrary to Article 8 of the Constitution and dismissed with costs this recourse.

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Recourse.

Recourse against the decision of the respondent by virtue of which he claimed and obtained payment for a circulation licence in respect of applicant's vehicle for the third quarter of 1971.

Applicant appeared in person.

V. Aristodemou, Counsel of the Republic,
for the respondent.

The following judgment was delivered by:-

STAVRINIDES, J.: This application, as it stood until the 28th of February last when it came on before me for directions, contained only one claim, *viz.*

"Return of the sum of £6.500 mils collected from him in excess of power, and/or unlawfully, and the issue of a circulation licence for vehicle DY 991 free of charge for the third quarter of 1972, in settlement of the existing dispute between him and the Authority. All Court expenses, compensation for loss of time, interest and costs."

On my pointing out to the applicant that such a claim was entirely outside the jurisdiction conferred on this Court by Article 146 of the Constitution, he asked and obtained leave to add a second claim, for

"A declaration of the Court that the decision of the Registrar of Motor Vehicles dated October 3, 1971, whereby he claimed and obtained payment for a circulation licence in respect of my vehicle for the third quarter of 1971, was a decision taken in excess of power, unlawful, and/or unjust,"
whereupon the application was amended accordingly.

The facts of the case may be summarised as follows :
On October 8, 1971, the applicant asked the appropriate officer of the Department of the Registrar of Motor Vehicles to renew the licence of the motor vehicle referred to for the last quarter of that year. No licence in respect of that vehicle having been issued for the last

preceding quarter, the officer pointed out to the applicant that (in accordance with the first proviso to paragraph 2B of Part 1 of the Schedule to the Motor Vehicles and Road Traffic Law, Cap. 332, as the Schedule is set out in s. 4 of Law 2 of 1962 and was amended by s. 2(c) of Law 4 of 1964 and s. 2(6) of Law 3 of 1965) before the licence asked for by him was issued, a licence for the last preceding quarter ought to be issued. The proviso in question reads :

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“Provided that no licence for a yearly, nine-month or six-month or, as the case may be, three month period shall be issued unless a licence in respect of the same motor vehicle has been issued for the last preceding yearly or nine-month or six-month or, as the case may be, three-month period, or unless—

(a) a written notice has been given by the registered owner of the motor vehicle to the Registrar, before any period for which an application for a licence has not been submitted, to the effect that the subject vehicle will not circulate or be used during such period, and

(b) the Registrar has certified that all proper steps for the immobilisation or sealing of the vehicle have been taken by him or he has been satisfied that the said vehicle has not been circulating or been used during such period.”

The applicant, invoking certificates from Government doctors about his having been laid up in hospital for treatment throughout the quarter in question, refused to pay the fee for that quarter, but in the end, in the face of the officer's insistence, paid it under protest.

At the commencement of today's hearing the applicant said he proposed giving evidence himself, and also calling a witness, to prove the non-use of the vehicle during the relevant period. After I explained to him that no question as to the non-use of the vehicle during that period could arise unless paragraph (a) of the proviso had been complied with, he admitted that the notice referred to therein had not been given, but alleged that

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that paragraph was unconstitutional "as subjecting the citizen to degrading treatment in breach of Article 8 of the Constitution." Thus the whole matter boils down to whether that paragraph is valid or not. In my opinion it is not necessary to analyse the notion of "degrading treatment" in order to reject that allegation.

For these reasons the application is dismissed with £10 costs against the applicant.

*Application dismissed;
order for costs as above.*