

Joy Cleetus Vs. the Union of India

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Court : Kerala

Decided On : Jan-23-2014

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Joy Cleetus

Respondent : The Union of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN THURSDAY, THE 23D DAY OF JANUARY 2014 3RD MAGHA, 1935 WP(C).No. 32071 of 2013 (H) ----- PETITIONER: ----- JOY CLEETUS, SOPANAM, MATHILIL P.O., PERINADU, KOLLAM. BY ADV. SRI.P.CHANDY JOSEPH. RESPONDENTS: ----- 1. THE UNION OF INDIA, REPRESENTED BY THE SECRETARY, MINISTRY OF SURFACE TRANSPORTS, GOVERNMENT OF INDIA, NEW DELHI - 110 001.

2. THE SECRETARY TO GOVERNMENT, MOTOR VEHICLES 'B' DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.

3. THE TRANSPORT COMMISSIONER, TRANSPORT BHAVEN, VAZHUTHAKKAD, THIRUVANANTHAPURAM, PIN - 695 014.

4. THE REGIONAL TRANSPORT OFFICER, KOLLAM, PIN - 691 001. R1 BY SRI.P.PARAMESWARAN NAIR,A.S.G OF INDIA, R2 TO R4 BY GOVERNMENT PLEADER SMT. R. REMA. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON2301-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Prv. W.P.(C).NO.32071/2013-H: APPENDIX PETITIONER'S EXHIBITS: EXHIBIT P1: TRUE COPY OF THE SALE CERTIFICATE ISSUED IN FORM NO21DATED411-2013. EXHIBIT P2: TRUE COPY OF THE TEMPORARY REGISTRATION ISSUED BY THE ASSISTANT REGISTERING AUTHORITY,KOLLAM DATED411-2013. EXHIBIT P3: TRUE COPY OF THE CERTIFICATE OF INSURANCE OBTAINED BY THE PETITIONER IN RESPECT OF THE VEHICLE DATED411-2013. EXHIBIT P4: TRUE COPY OF THE CERTIFICATE ISSUED BY THE BODY BUILDER IN FORM22A) DATED1712-2013. EXHIBIT P5: TRUE COPY OF THE COMMUNICATION ISSUED BY THE3D RESPONDENT NO C1/6294/TC/2013 DATED2806-2013. EXHIBIT P6: TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER FOR REGISTRATION OF THE VEHICLE IN FORM NO20DATED1712-2013. EXHIBIT P7: TRUE COPY OF THE NOTIFICATION NO.S.O.3026(E) DTD. 28/12/2012 PUBLISHED BY THE CENTRAL GOVERNMENT. EXHIBIT P8: TRUE COPY OF THE

ORDER

OF THIS HONOURABLE COURT IN I.A NO155902013 IN W.P.(C). NO282602013 DATED2611-2013. RESPONDENTS' EXHIBITS: NIL. //TRUE COPY// P.A. TO JUDGE. Prv. K. VINOD CHANDRAN, J
===== W.P(C) No.32071 of 2013
===== Dated this the 23rd day of January, 2014

JUDGMENT

The petitioner challenges Ext.P7 notification by which the Central Motor Vehicles (Accreditation of Bus Body Building) Order, 2007 was superseded and fresh orders were issued termed as Central Motor Vehicles (Accreditation of Body Buildings) Amendment Order 2012. Essentially the said order made a condition of building bodies, over the chassis purchased from manufacturers, by accredited

workshops, which accreditation was to be granted by the Accreditation Agency appointed by the Central Government. The contention of the petitioner was that in fact, a similar order was there earlier in 2007 and the same was not brought into force in the State of Kerala. The vehicles with body built on chassis; in the State of Kerala, were produced for registration and were verified as to the road worthiness and safety by the registering authority and registration used to be granted on satisfaction of the registering authority. However, the implementation of the Order without W.P(C) No.32071 of 2013 2 permitting the purchasers of chassis, a breathing time, with respect to vehicles they had already entrusted to workshops for body building, is illegal and arbitrary, is the contention.

2. The learned Government Pleader, however, would submit that in fact, twice time was granted for implementation of Ext.P7 notification. As per the notification the order was to come into force on 31.12.2012. However, the registering authority in the State of Kerala had granted time up to 30.9.2013. Any body, built by un-accredited workshops ought to have been presented for registration before then, is the contention.

3. The petitioner, however, would contend that he purchased the chassis 04.11.2013 and entrusted the vehicle to a workshop without being aware of Ext. P7 notification. The body building activities were completed and the vehicle was presented for registration on 17.12.2013. But relying on Ext.P7 notification and the extended time granted, the registering authority refused to register the vehicle for reason only of the body having not been built in an accredited workshop.

4. When the above writ petition came up for admission, an interim order was issued directing the registering authority to W.P(C) No.32071 of 2013 3 verify as to whether the vehicle and the body built on it satisfies the standards specified in the Kerala Motor Vehicles Act , 1988, the Central Motor Vehicles Rules and the Kerala Motor Vehicle Rules and whether the vehicle could be safely used on roads after inspection. The learned Government Pleader has now filed the report of the registering authority finding that the vehicle is road-worthy and also conforms to the safety standards prescribed by the Act and Rules.

5. In such circumstances, there shall be a direction to the registering authority to register the vehicle de hors Ext.P7 notification since the body built on the chassis is found to satisfy the norms prescribed by the Act and Rules. The writ petition is disposed of with the above direction. The parties are left to suffer their costs. Sd/- K.VINOD CHANDRAN, JUDGE. SB

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