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Thomas.K.K Vs. the Secretary

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Court : Kerala

Decided On : Feb-13-2014

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Thomas.K.K

Respondent : The Secretary

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN THURSDAY, THE13H DAY OF FEBRUARY201424TH MAGHA, 1935Q WP(C).No. 2301 of 2014 (K) ---------- PETITIONER : ---------- THOMAS.K.K, AGED55YEARS, S/O.KOCHU VAREED, KOONAN HOUSE, THURVANKAD, PULLUR P.O., THRISSUR-680683. BY ADVS.SRI.M.JITHESH MENON SMT.K.INDU (POURNAMI) RESPONDENTS: ---------- 1. THE SECRETARY, MINISTRY OF SURFACE TRANSPORTS, GOVERNMENT OF INDIA, NEW DELHI-110001.

2. THE SECRETARY TO GOVERNMENT, TRANSPORTS DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM-695001.

3. THE TRANSPORT COMMISSIONER, TRANS TOWER, VAZHUTHAKAD, THIRUVANANTHAPURAM-695014.

4. THE JOINT REGIONAL TRANSPORT OFFICER, (ADDL. REGISTERING AUTHORITY), IRINJALAKUDA. BY GOVERNMENT PLEADER SMT R. REMA BY SRI.P.PARAMESWARAN NAIR,ASG OF INDIA THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON1302-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: BP WP(C).No. 2301 of 2014 (K) ---------- APPENDIX PETITIONER(S)' EXHIBITS : ---------- P1: COPY OF THE SALE CERTIFICATE DATED2308.2013. P2: COPY OF THE TEMPORARY REGISTRATION CERTIFICATE DATED2408.2013. P3: COPY OF THE INSURANCE CERTIFICATE. P4: COPY OF THE NOTIFICATION DATED310/2012 VIDE SO NO.2356 (E) WITH AMENDMENT. P5: COPY OF PROCEEDING DATED2806/2013 ISSUED BY THE3D RESPONDENT. RESPONDENT(S)' EXHIBITS : NIL. ---------- //TRUE COPY// P.A. TO JUDGE BP K.VINOD CHANDRAN, J - W.P.(C).No. 2301 of 2014 - - - - - - - - - - - - - - - - Dated 13th February, 2014 -

JUDGMENT

The petitioner challenges Ext.P4 notification by which the Central Motor Vehicles (Accreditation of Bus Body Building) Order, 2007 was superseded and fresh orders were issued termed as Central Motor Vehicles (Accreditation of Body Buildings) Amendment Order 2012.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 permitting the purchasers of chassis, a breathing WP(C).2301/14 2 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.P4 notification. As per the notification the order was to come into force on 1.4.2013. 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 in August and entrusted the vehicle to a workshop for building a body. Due to Monsoon the body building activities, could not be completed and the same was completed and presented for registration in October 2013. But relying on Ext.P4 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, WP(C).2301/14 3 an interim order was issued directing the registering authority to 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.P4 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 Mrcs

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