

State of Karnataka Vs. m/s.chalukya Motors Private Limited

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Court : Karnataka Dharwad

Decided On : Jun-06-2016

Judge : H.G.Ramesh and Rathnakala

Appeal No. : WA 100401/2015

Appellant : State of Karnataka

Respondent : m/s.chalukya Motors Private Limited

Judgement :

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1. :- W.A. NO.100401/2015 & W.A. NOS.100532-100533/2015 IN THE HIGH COURT OF KARNATAKA DHARWAD BENCH DATED THIS THE6h DAY OF JUNE2016 PRESENT THE HONBLE MR. JUSTICE H.G.RAMESH AND THE HONBLE MRS. JUSTICE RATHNAKALA WRIT APPEAL NO.100401/2015 & WRIT APPEAL NOS.100532-100533/2015 (MV) BETWEEN1 STATE OF KARNATAKA, DEPARTMENT OF TRANSPORT, M.S. BUILDING, BENGALURU, REPRESENTED BY ITS PRINCIPAL SECRETARY.

2. THE COMMISSIONER FOR TRANSPORT, 5TH FLOOR, M.S. BUILDING, AMBEDKAR VEEDHI, BENGALURU.

3. THE REGIONAL TRANSPORT AUTHORITY, GADAG, REPRESENTED BY ITS SECRETARY.

4. THE REGIONAL TRANSPORT OFFICER, OFFICE OF THE RTO, GADAG.

5. THE DEPUTY COMMISSIONER GADAG CUM CHAIRMAN OF ROAD TRANSPORT AUTHORITY, GADAG. APPELLANTS (BY SMT. K.VIDYAVATHI, ADDL. GOVERNMENT ADVOCATE) -:

2. :- W.A. NO.100401/2015 & W.A. NOS.100532-100533/2015 AND: M/S CHALUKYA MOTORS PVT. LTD., KUSTANGI BUILDING, HUBLI ROAD, GADAG, REPRESENTED BY ITS MANAGING DIRECTOR, SRI RUDRANNA GONEPPA GULAGULI. RESPONDENT (BY MS. V.VIDYA IYER, ADVOCATE) THESE APPEALS ARE FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO CALL FOR THE RECORDS, SET ASIDE THE IMPUGNED

ORDER

DATED 12.12.2014 PASSED BY THE LEARNED SINGLE JUDGE IN W.P. NOS.106507- 106509/2014. THESE APPEALS COMING ON FOR PRELIMINARY HEARING THIS DAY, H.G. RAMESH J., DELIVERED THE FOLLOWING:

JUDGMENT

H.G.RAMESH, J.

(Oral):

1. These appeals by the State are directed against the order dated December 12, 2014 passed by a learned single Judge of this Court in W.P. Nos.106507-106509/2014. By the impugned order, the learned single Judge has held that the Regional Transport Authority's decision dated 13.09.2013 prohibiting grant of contract carriage permits in Gadag district to all newly registered three wheelers having a rear overhang exceeding 450 mm is illegal as the power to impose such a prohibition cannot be traced to any provision of law.-.:

3. :- W.A. NO.100401/2015 & W.A. NOS.100532-100533/2015 2. We asked the Additional Government Advocate appearing for the appellants to trace the power of Regional Transport Authority to impose the aforesaid prohibition to any

provision of law. The AGA referred to clause (xiii) of sub-section (2) of Section 74 of the Motor Vehicles Act, 1988 (the Act).

3. We extract herein below the provision referred to by the AGA and also the definition of prescribed given in Section 2(32) of the Act: Sec.74. Grant of contract carriage permit.- (1)xxxxxxx (2) The Regional Transport Authority, if it decides to grant a contract carriage permit, may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely:- xxxxxxxxxxxxxxxx (xiii) any other conditions which may be prescribed. Sec.2. Definitions.- xxxxxxxxxxxx (32) prescribed means prescribed by rules made under this Act; (emphasis supplied) 4. Sec. 74(2)(xiii) of the Act empowers the Regional Transport Authority to attach to the permit any conditions prescribed by rules made under the Act. It does not empower the Regional Transport Authority to prohibit grant -:

4. :- W.A. NO.100401/2015 & W.A. NOS.100532-100533/2015 of permits to newly registered motor vehicles. Learned AGA could not refer to any rule under the Act empowering the Regional Transport Authority to prohibit grant of contract carriage permit to a motor vehicle having a rear overhang exceeding 450 mm. Hence, reliance on Sec.74(2)(xiii) of the Act by the AGA is inappropriate. No ground is made out to interfere with the order of the learned single Judge. The writ appeals are accordingly dismissed. Appeals dismissed. Sd/- JUDGE Sd/- JUDGE Kms

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