

The Delegate General vs the Regional Transport Authority, Ernakulam

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Court : Kerala

Decided On : Jan-09-2023

Judge : Honourable Mr. Justice Amit Rawal

Appeal No. : WP(C)/419/2023

Appellant : The Delegate General

Respondent : The Regional Transport Authority, Ernakulam

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL MONDAY,
THE 9TH DAY OF JANUARY 2023 / 19TH POUSHA, 1944
PETITIONER: THE DELEGATE GENERAL CARMELITE FRIARS OF ST
THERESE AND ST. ALBERT TRUST, HERIC SEDRIC, AGED 55
YEARS, S/O. ESMY D'CRUZ, CARMELARAM PRIORY, VANITYAKADU
MANNAM P.O., ERNAKULAM - 683520 BY ADV PRASAD CHANDRAN
RESPONDENTS: 1 THE REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM, REPRESENTED BY ITS SECRETARY, REGIONAL
TRANSPORT OFFICE, 2ND FLOOR, CIVIL STATION, KAKKANAD,
ERNAKULAM, PIN - 682030 2 THE ADDITIONAL REGIONAL
TRANSPORT AUTHORITY NORTH PARAVUR, SUB REGIONAL

TRANSPORT OFFICE, REPUBLIC ROAD, NORTH PARAVUR, ERNAKULAM, PIN - 683513 SRI.JIMMY GEORGE - GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09.01.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Petitioner claiming to have purchased a service vehicle of Tata Motor Private Limited Winger from an authorised dealer M/s.Popular Mega Motors Private Limited on 03.11.2022, filed this writ petition with the following prayers:

i)to issue a writ of mandamus or any other appropriate writ, direction or order under Article 226 of the Constitution of India commanding the 2nd respondent to register the vehicle belonging to the petitioner, purchased as per Exhibit P1 to P4 certificates, as expeditiously as possible, at any rate forthwith or within a time limit as stipulated by this Honble Court.

ii)to issue such other appropriate writ, order or direction as this Honble Court may deem fit and proper in the facts and circumstances of the case. iii)to award the petitioner the costs of this proceedings.

2. Learned counsel for the petitioner submits that entire formalities as required under Rule 47 of the Central Motor Vehicle Rules have been complied with but the vehicle is not being registered.

3. Learned State Counsel, who is present in Court, on

instructions, submits that the compliance as provided in Rule 4 is wanting, but in case such information is given, there will be no impediment for the registration of the vehicle.

4. I have heard the learned counsel for the parties and appraised the paper book.

5. Rule 47 of Central Motor Vehicles Rules along with Section 40 of the Motor Vehicles Act reads thus:

Rule 47. Application for registration of motor vehicles.-(1) An application for registration of a motor vehicle shall be made in Form 20 to the registering authority within a period of [seven days] from the date of taking delivery of such vehicle, excluding the period of journey and shall be accompanied by-

(a) sale certificate in Form 21;

(b) valid insurance certificate;

[(c) copy of the proceedings of the State Transport Authority or Transport Commissioner or such other authorities as may be prescribed by the State Government for the purpose of approval of the design [in the case of a trailer other than a vehicle of category T;]

(d) original sale certificate from the concerned authorities in Form 21 in the case of ex-army vehicles;

(e) proof of address by way of any one of the documents referred to in rule 4;

(f) temporary registration, if any;

(g) road-worthiness certificate in Form 22 from the manufacturers, [Form 22-A from the body builders]; [(h) custom's clearance certificate in the case of imported vehicles along with the licence and bond, if any: Provided that in the case of imported vehicles other than those imported under the Baggage Rules, 1998, the procedure followed by the registering authority shall be same as those procedure followed for registering of vehicles manufactured in India, and]

(i) appropriate fee as specified in rule 81;

(2) In respect of vehicles temporarily registered, application under sub-rule (1) shall be made before the temporary registration expires."

Rule 4. Evidence as to the correctness of address and age.-Every applicant for the issue of a licence under this Chapter shall produce as evidence of his address and age, any one or more of the following documents in original or relevant extracts thereof duly [self attested], namely,

2. Electoral Roll,
3. Life insurance Policy,
4. Passport,
6. Pay slip issued by any office of the Central Government or a State Government or a local body,
8. School certificate
9. Birth certificate,
10. Certificate granted by a registered medical practitioner not below the rank of a Civil Surgeon, as to the age of the applicant, 18[11. Any other document or documents as may be prescribed by the State Government under clause (k) of section 28:] [12. Proof of legal presence in India in addition to proof of residence in case of foreigners]

Provided that where the applicant is not able to produce any of the above-mentioned documents for sufficient reason, the licensing authority may accept any affidavit sworn by the applicant before an Executive Magistrate, or a First Class Judicial Magistrate or a Notary Public as evidence of age and address.] Section 40.-Registration, where to be made-Subject to the provisions of section 42, section 43 and section 60, every owner of a motor vehicle shall cause the vehicle to be registered by a registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept.

6. As per the provisions aforementioned, the proof

regarding the residence is prescribed under Rule 4. The compliance of the same as per the contention of the respondent, is wanting. Learned counsel for the petitioner, on instructions, submits that the said compliance would be done within a period of three days. In case such compliance is done and it is in accordance with the requirement of Rules aforementioned, respondent shall register the vehicle as expeditiously as possible. Writ petition stands disposed off. Sd/- AMIT RAWAL JUDGE nak APPENDIX OF WP(C) 419/2023 PETITIONER EXHIBITS

Exhibit-P1 TRUE COPY OF THE EXCISE CUM SALES TAX INVOICE ISSUED BY M/S POPULAR MEGA MOTORS (INDIA)PRIVATE LTD DATED 30-11-2022. Exhibit-P2 TRUE COPY OF THE SALE CERTIFICATE ISSUED IN FORM NO.21 DATED 06-12-2022. Exhibit-P3 TRUE COPY OF THE CERTIFICATE OF INSPECTION ISSUED BY THE APPROVED DEALER. Exhibit-P4 TRUE COPY OF THE APPLICATION IN FORM NO.20 ALONG WITH SUPPORTING DOCUMENTS DATED 06.12.2022. Exhibit-P5 TRUE COPY OF THE REGISTRATION CERTIFICATE OF KL-42/Q 8805.

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