

GAHC010016262023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : PIL/12/2023

JIARUL ISLAM @ JIYARUL ISLAM
S/O LATE RASTAM ALI KHAN, R/O VILL-NIUMBARPARA PART-III, P.O.-
NIUMBARPARA, P.S.-ABHAYAPURI, DIST-BONGAIGAON, ASSAM, PIN-
783392

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE UNDER SECRETARY, MINISTRY OF ROAD
TRANSPORT AND HIGHWAYS, TRANSPORT BHAVAN, PARLIAMENT
STREET, NEW DELHI-110001

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM
TRANSPORT DEPARTMENT
JANATA BHAWAN
BLOCK-E
GROUND FLOOR
DISPUR
GUWAHATI-781006

3:THE COMMISSIONER OF TRANSPORT
ASSAM
PARIBAHAN BHAWAN
JAWAHAR NAGAR
KHANAPARA, GUWAHATI-22

4:THE NORTH-EAST DEALER ASSOCIATION
GUWAHATI
REPRESENTED BY THE PRESIDENT (RAJDEEP OJAH)
ADABARI
P.O.-PANDU SUB OFFICE
P.S.-JALUKBARI
DIST- KAMRUP (M)
ASSAM, PIN-78101

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE KARDAK ETE**

For the petitioner : Mr. M.R. Sodial, Advocate.
For respondent No. 1 : Mr. B. Chakravarty, Central Government Counsel.
For respondent Nos. 2&3: M.D. Borah, S.C., Transport Department.
Date of hearing & order : 15th of March, 2023.

:: ORDER ::

(Kardak Ete, I)

This petition is being filed by the petitioner, Jiarul Islam @ Jiyarul Islam, in the form of PIL seeking rectification of the Standard Operating Procedure (in short, 'SOP'), No. CT-E/127/2016/4628 dated 26-10-2022, wherein the Authorised Automobile Dealers are authorised to print and deliver the Registration Certificate for both Aadhar and non-Aadhar based registration at Dealers end etc., on the ground that same will give rise to increase in criminal activity in the State.

2. We have heard Mr. M.R. Sodial, learned counsel for the petitioner. We have also heard Mr. B. Chakraborty, learned Central Government Counsel representing the respondent No. 1 and Ms. M.D. Borah, learned Standing Counsel, Transport Department, representing the respondent Nos. 2 and 3.

3. The contents of the said SOP, dated 26-10-2022, is reproduced hereinbelow:

**“GOVERNMENT OF ASSAM
OFFICE OF THE COMMISSIONER OF TRANSPORT, ASSAM
PARIBAHAN BHAWAN, JAWAHAR NAGAR, KHANAPARA, GUWAHATI: 22
PHONE. NO. 0361-2304110(O):
E. mail report.ctassam@gmail.com
Website-www.comtransport.assam.gov.in**

NO. CT-E/127/2016/4628

Dated Guwahati the 26th of October 2022**STANDARD OPERATING PROCEDURE(S.O.P) FOR PRINTING QE REGISTRATION CERTIFICATES (R.C) BY AUTOMOBILES DEALERS IN ASSAM.**

In continuation to the earlier Standard Operating Procedure (S.O.P) issued in connection with registration of fully built vehicles (Transport/Non-Transport) on first sale through Aadhar authentication by authorized Automobile Dealers vide No. CT-E/127/2016/1876, dated 25-05-2022, the following inclusions have been made.

- 1. Registration from anywhere under any District Transport offices within the State of Assam by the authorized Automobile Dealers in reference to MoRTH G.S.R. No.240(E). Dated 31-03-2022 is allowed.*
- 2. Authorized Automobile Dealers have to print and deliver the Registration Certificate for both Aadhar and non Aadhar based registration at Dealers end.*
- 3. Every authorized Dealers shall have to arrange printer for printing of Registration Certificates at Dealer's point.*
- 4. As per G.S.R. No. 240 (E). dated 31-03-2022, the records of vehicles registration is allowed to keep in electronic form. Hence. It is not necessary to send hard copies of vehicular documents to the District Transport Offices by the authorized Automobile Dealers. Simultaneously, as Registering Authority, the Dealers will also be responsible for verification of documents, authenticity of information and maintenance of records. Dealers shall have to produce any documents pertaining to registration before any competent authority as and when called for.*
- 5. Every Dealers shall have to maintain form 19 electronically as per Rule 43 (2) and (3) of CMVR, 1989. This has the approval of Commissioner of Transport, Assam. This S.O.P. shall come into force with immediate effect.*

Signed by Sushmita Kakati

DATED 26-10-2022 13:27:27

***Addl. Commissioner Transport
Assam, Guwahati-22"***

4. The learned counsel for the petitioner submits that the criminal activities such as chain/mobile snatching, kidnapping or abduction, smuggling of drugs, gold and endangered species or their body parts are seen in Assam or neighbouring States and many terrorist activities such as bombing are also carried out by the use of vehicles. Accordingly, there is a fear prevailing in the mind of the society at large as to whether the new SOP will eliminate corruption or it will give rise to crime in the State. The learned counsel for the petitioner also submits that prior to issuance of the SOP, in question; documents

verification of vehicles for registration was undertaken by the District Transport Department. He further submits that handing over of the verification process of registration of vehicle to Authorised Automobile Dealers may give rise to registration by persons using fake documents.

5. It is further submitted by the learned counsel for the petitioner that the paying public must be conferred freedom which option to be chosen for registering vehicle, dealer point registration or registering vehicle in online process and getting approval in DTO office, as such handing over the complete verification and registration process to the automobile dealers may create many complications as the dealers are not required to send hard copies of vehicular documents to the DTO by the Authorised Automobile Dealers.

6. Strangely enough, the learned counsel for the petitioner submits that due to issuance of the SOP dated 26-10-2022 the officials of the DTO will be drawing salaries without any work left to be done on their part as the complete process of registration of vehicle will be done by the Authorised Automobile Dealers.

7. An affidavit-in-opposition has been filed on behalf of the respondent Nos. 2 and 3.

8. Ms. Borah, learned standing counsel, Transport Department, referring to paragraphs 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, and 16 of the said affidavit, submits that the SOP dated 26-10-2022 has been issued in order to enhance the efficiency, efficacy and effectiveness of the service delivery process to the people and to make the process easier in the interest of public, in tune with the latest technological developments and in terms of the provisions of the Act and Rules regulating the Motor Vehicle.

9. Ms. Borah, learned standing counsel, submits that the Transport Department of the State has, vide notification dated 22-02-2022, empowered

the Motor Vehicle Dealers in the State of Assam as the Registering authority for registration of vehicles under Rule 2(m) of the Assam Motor Vehicle Rules, 2003 (hereinafter referred to as the Rules of 2003').

10. As per Rule 2(m) of the Rules of 2003, "Registering authority" means the District Transport Officer of the district or the Deputy Commissioner of the district, where there is no such District Transport Officer within their area of jurisdiction or such other authority as may be specially empowered in this behalf by the State Government by notification published in the Official Gazette. Thus, the automobile dealers were specially empowered in this behalf by the State Government by issuing notification No. TMV.31/2022/8, dated 22-02-2022, accordingly, the SOP dated 26-10-2022 has been issued.

11. The learned standing counsel for the respondent Nos. 2 and 3 further submits that the Ministry of Road Transport & Highways, Govt. of India, vide notification dated 31-03-2021 has made it mandatory to keep the records of vehicles registered in electronic form, which is effective from 01-04-2021. Presently, every application has to be mandatorily made in online mode with uploading of the requisite documents online and hence, it is no more required to keep physical files, once documents are kept in electronic form in online mode of application. Nowadays, in Vahan 4.0 software cash transactions have completely been stopped officially with effect from the year 2020.

12. We have heard the rival submissions of the learned counsel for the parties at length. We have also perused the materials placed on record.

13. The State respondents have clearly set out in their counter affidavit the procedures relating to registration of the vehicles.

14. On consideration of the materials placed on record, it is noted that the

SOP dated 26-10-2022 seems to be issued in order to provide convenient and hassle free services to the citizen and in the interest of good governance, promoting ease of living of citizens and enabling better access to public services. It provides contactless services, which simplifies the Government delivery process in a transparent and efficient manner. It clearly demonstrates the interest of public in contrast to the claim of the petitioner, who attempted to project himself to be a public-spirited person by filing the present petition. We have also noticed that the procedure adopted is in tune with the relevant provisions of the Acts and Rules regulating the motor vehicles. We also find that the SOP dated 26-10-2022 and other procedure are in sync with the present day advancements and development of the technology, which will benefit the public at large. The SOP dated 26-10-2022 and the procedures adopted are neither in conflict with any law nor the same can be termed as *malafide*. It would rather be against public interest to interfere with the SOP on mere askance of the petitioner in the garb of public interest litigation in to those areas, which are the functions of the executive.

15. We may note that in due course, scope of the PIL jurisdiction got widened through juridical evolution as explained in **State of Uttaranchal v. Balwant Singh Chaufal, (2010) 3 SCC 402**, by Hon'ble Apex Court at paragraph 43:

“43. In this judgment, we would like to deal with the origin and development of public interest litigation. We deem it appropriate to broadly divide the public interest litigation in three phases:

Phase I.—It deals with cases of this Court where directions and orders were passed primarily to protect fundamental rights under Article 21 of the marginalised groups and sections of the society who because of extreme poverty, illiteracy and ignorance cannot approach this Court or the High Courts.

Phase II.—It deals with the cases relating to protection, preservation of ecology, environment, forests, marine life, wildlife, mountains, rivers, historical monuments, etc.

Phase III.—It deals with the directions issued by the Courts in maintaining the probity, transparency and integrity in governance.”

16. We would not go into details about these developmental phases of the PIL jurisdiction but suffice to mention the concern of the Court in preventing misuse of this wide jurisdiction in this proceedings as observed in **Balwant Singh Chaufal** (supra), in the following words:

“143. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps to prevent and cure its abuse on the basis of monetary and non-monetary directions by the courts.”

17. In view of above, we find no merit in this PIL and the same is accordingly dismissed.

18. No order as to cost.

JUDGE

CHIEF JUSTICE

Comparing Assistant