

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C).No. 162 of 2011 (U)

PETITIONER(S) :

P.K.NASAR
S/O.P.K.MUHAMMED, AGED 39 YEARS,
PATTUKUTH HOUSE,
JUBILEE ROAD, PERINTHALMANNA.

BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA

RESPONDENT(S) :

1. THE REGISTERING AUTHORITY,
(THE JOINT REGIONAL TRANSPORT OFFICER),
PERINTHALMANNA P.O., MALAPPURAM DISTRICT-679 322.
2. THE DEPUTY TRANSPORT COMMISSIONER,
CENTRAL ZONE 1, THRISSUR P.O., PIN - 680 001.
3. M/S.T.V.SUNDARAM IYENGAR & SONS LTD.,
XI/26-27, MANJERI ROAD, P.O. VALLUVAMBRAM-678 651,
MALAPPURAM DISTRICT.

R3 BY ADV. SRI.E.K.MADHAVAN
R3 BY ADV. SRI.V.KRISHNA MENON
R3 BY ADV. SMT.P.VIJAYAMMA
R3 BY ADV. SRI.PRINSUN PHILIP
R3 BY ADV. SRI.PILLAI JAYAPRAKASH RAVEENDRAN
BY GOVERNMENT PLEADER SRI.NOUSHAD THOTTATHIL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1 - TRUE COPY OF THE SALE CERTIFICATE ISSUED BY THE THIRD RESPONDENT.
- EXT. P2 - TRUE COPY OF THE INVOICE ISSUED ON BEHALF OF THE THIRD RESPONDENT.
- EXT. P3 - TRUE COPY OF THE TEMPORARILY REGISTRATION CERTIFICATE OF THE PETITIONER'S VEHICLE.
- EXT. P4 - TRUE COPY OF THE ORDER NO.C6/49294/2010/MPNA DATED 04/09/2010 OF THE FIRST RESPONDENT.
- EXT. P5 - TRUE COPY OF THE MEMORANDUM OF APPEAL SUBMITTED BEFORE THE SECOND RESPONDENT.
- EXT. P6 - TRUE COPY OF THE COMMUNICATION DATED 24/03/1998 ISSUED BY THE TRANSPORT COMMISSIONER.
- EXT. P7 - TRUE COPY OF THE REGISTRATION PARTICULARS OF THE VEHICLE BEARING NO.KL-53-B-4257.
- EXT. P8 - TRUE COPY OF THE REGISTRATION PARTICULARS OF THE VEHICLE BEARING NO.KL-05-AB-474.
- EXT. P9 - TRUE COPY OF THE REGISTRATION PARTICULARS OF THE VEHICLE BEARING NO.KL-35-B-4107.
- EXT. P10 - TRUE COPY OF THE ORDER NO.C/1392/2010/CZ1 DATED 15/12/2010 OF THE SECOND RESPONDENT.
- EXT. P11 - TRUE COPY OF THE PHOTOGRAPH OF THE VEHICLE PURCHASED BY THE PETITIONER.
- EXT. P12 - TRUE COPY OF THE CERTIFICATE ISSUED IN PART II ISSUED BY THE BODY BUILDER.
- EXT. P13 - TRUE COPY OF THE PARTICULARS REGARDING THE ENTIRES MADE IN RESPECT OF HIS VEHICLE.
- EXT. P14 - TRUE COPY OF THE TAX RECEIPT.
- EXT. P15 - TRUE COPY OF THE BROCHURE ISSUED BY THE MANUFACTURER.
- EXT. P16 - TRUE COPY OF THE S.O.451(E) DATED 19TH JUNE, 1992.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.M. SHAFFIQUE, J.

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W.P. (C) No. 162 of 2011

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Dated this, the 29th day of September, 2015

J U D G M E N T

Petitioner has approached this Court challenging Exts.P4 and P10 by which his request for registering his Mahindra & Mahindra LMV Pickup vehicle as “Break Down Vehicle” (Non Transport Vehicle-NTV) was rejected. It is stated in Ext.P4 that when the vehicle was produced for inspection, it was noticed that the vehicle was not tested or granted certificate by any agencies in terms of Rule 126 of the Central Motor Vehicle Rule, 1989. The appellate authority also had taken the same view. It is argued by the learned counsel for the petitioner that as per Ext.P6 Circular issued by the Transport Commissioner, the aforesaid vehicle could be registered as break down behicle and that in several instances, such registration had been permitted by the registering authority.

2. A perusal of Ext.P6 does not in any way indicate that the Mahindra & Mahindra LMV Pickup vehicle could be registered as break down vehicle. Further, if at all any registering authority

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has permitted registration, that may not help the petitioner as what has to be considered in the case is whether the vehicle which is modified for a particular purpose could be registered for a different purpose altogether. The crucial aspect to be looked into by the registering authority is the certificate issued by the competent agency in terms of Rule 126 of the Central Motor Vehicle Rules. Once the vehicle had been tested and the proto type is certified as a particular category of vehicle, the registering authority has no other jurisdiction other than to comply with the same.

3. Under such circumstances, the registering authority is not bound to register the vehicle as break down vehicle merely for the reason that the petitioner changed the model of the vehicle to suit a different purpose.

Having regard to the aforesaid factual findings, I do not think that the petitioner has made out a case for interference with Exts.P4 and P10 and accordingly, this writ petition is dismissed.

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

30/09/2015

//True Copy//

PS to Judge