IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

WP(C).No. 13214 of 2015 (B)

PETITIONER :

RONAK R.,
AGED 35 YEARS, S/O.RADHAKRISHNAPILLAI,
RESIDING AT DEV ALAYAM
THEJAS NAGAR-18, PUTHENVAYAL,
THILLERY, PROPRIETOR, DEV SNACKS,
CHERIYELA, KOLLAM DISTRICT.

BY ADVS.SRI.BINU GEORGE
SMT.HEMALATHA

RESPONDENT(S) :

1. JOINT REGIONALTRANSPORT OFFICER
REGIONAL TRANSPORT OFFICE, COLLECTORATE
KOLLAM-691001.

2. DEPUTY TRANSPORT COMMISSIONER
(SOUTH ZONE), THIRUVANANTHAPURAM-695001.

R1 & R2 BY GOVT. PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-06-2015, THE COURT ON 10-07-2015 DELIVERED THE FOLLOWING:

Mn

...2/-

WP(C).No. 13214 of 2015 (B)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF CERTIFICATE OF REGISTRATION BEARING TIN NO.32021255542 DATED 15/5/2007.

EXT.P2 COPY OF ORDER NO. F1/31367/2015/Q DATED 9/3/2015.

EXT.P3 COPY OF ORDER NO. C/1238/SZ/2015 DATED 16/4/2015.

EXT.P4 COPY OF CERTIFICATE OF REGISTRATION BEARING KL 02 AR6379.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.13214 of 2015

Dated this the 10th day of July, 2015.

JUDGMENT

Ext.P2 order passed by the first respondent rejecting the application for fresh registration of the petitioner's vehicle and Ext.P3 order passed by the second respondent dismissing the appeal preferred by the petitioner against Ext.P2 order, the petitioner has come up before this Court.

2. The petitioner is a businessman conducting production and distribution of bakery food items with in the limit of Kollam District. The petitioner alleges that for the purpose of his business, he purchased a TATA LP 1109/48 EX2 goods carriage chase and build body as per the requirements of his business needs. The petitioner submitted application before the respondent, registering authority for registration of his goods carriage on 9.3.2015 with all statutory particulars as required by the respondent authority for the same. The respondent's office conducted inspection of the petitioner's vehicle and submitted report to the respondent. Accordingly,

on the basis of the inspection report, the respondent rejected the application of the petitioner for the reason that the height of the vehicle produced by the petitioner does not tally with statutory requirements. The respondent specified in Ext.P2 order that as per Central Motor Vehicles Rules, the overall height of the vehicle is limited upto 3.8 meters. But it was pointed out that the height of the petitioner's vehicle has a height of 4.1 metre. Subsequently, the petitioner filed appeal before the Deputy Transport Commissioner. The appellate authority also rejected the appeal approving the proceedings of the first respondent.

3. I have heard the learned counsel for the petitioner and the learned Government Pleader in the matter.

4. The stand taken by the respondents is that as per the existing provision of Rule 93(4) (i) of the Central Motor Vehicles Rules, the maximum overall height of the vehicle is limited up to 3.8 metres. On verification, it was found that the petitioner's vehicle is having an overall height of 4.1 metres. The petitioner has no case that the height of his vehicle is

below 3.8 metres. On the other hand, the learned counsel for the petitioner invited my attention to Ext.P4 registration certificate issued in respect of a MG-Goods Carrier Truck of Ashok Leyland Ltd, which according to the petitioner, was exempted from Rule 93(4) (i) of the Central Motor Vehicles Rules. However, Ext.P4 does not reflect the height of the vehicle. As it cannot be discerned from Ext.P4 that the description of the petitioner's vehicle tallies with the description of the vehicle in Ext.P4, Ext.P4 does not come to the rescue of the petitioner. As the height of the petitioner's vehicle exceeds the limits prescribed as per Rule 93(4) (i) of the Central Motor Vehicles Rules, the petitioner is not entitled to get the registration as prayed for.

Therefore, this Court is of the definite view that the impugned orders do not call for the interference by this Court.

In the result, the writ petitions fails and accordingly, it is dismissed.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.