

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.11378 of 2016

&

W.M.P.No.9838 of 2016

P.Baby Preetha

.. Petitioner

Vs.

The Registering Authority-Cum-
Regional Transport Officer,
Pollachi, Coimbatore District.

. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent made in அபி No.05454/A3/2016, dated 19.02.2016, quash the same, and consequently direct the respondent to register the petitioner's Mahindra Bolero Camper Vehicle bearing Engine No.GHF1E35014, Chassis No.MA1RU4GHKF3E29682 as non-transport light motor vehicle forthwith.

For Petitioner : Mr.K.Hariharan

For Respondent : Mr.M.S.Ramesh
Addl. Govt. Pleader

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records of the respondent dated 19.02.2016, quash the same and consequently direct the respondent to register his Mahindra Bolero Camper Vehicle bearing Engine No.GHF1E35014, Chassis No.MA1RU4GHKF3E29682 as non-transport Light Motor Vehicle.

2. It is the case of the petitioner that he purchased a new Bolero Camper Gold Vehicle and the vehicle was temporarily registered with Assistant Registering Authority, Coimbatore South. On 21.12.2015, the petitioner produced the vehicle before the respondent for permanent registration. According to the petitioner, he is intending to use the vehicle for personal use, therefore, he requested the respondent to register the vehicle as non-transport vehicle. On 19.2.2015, the respondent sent a memo stating that petitioner's vehicle cannot

be registered as non-transport because the Transport Commissioner has issued instruction to register the said type of vehicle as LMV Goods vehicle and the respondent returned the petitioner's application.

3. Mr.K.Hariharan, learned counsel appearing for the petitioner submitted that in W.P.No.29004 of 2011, dated 12.1.2012, this court held that this type of vehicle can be registered only as privately owned Light Motor vehicle and the said order has been implemented by the Regional Transport Officer, Erode. Further, the learned counsel submitted that the respondent also registered this kind of vehicle as non-transport vehicle, pursuant to the orders of this court made in W.P.No.5532 of 2015, dated 9.3.2015. That apart, the learned counsel also relied upon an unreported order passed in W.P.No.34430 of 2014, dated 30.10.2015 wherein, this court followed the order passed in W.P.No.5532 of 2015 and directed the respondent to consider the application of the petitioner for registering the vehicle as non-transport vehicle.

4. Mr.M.S.Ramesh, learned Additional Government Pleader appearing for the respondent submitted that the orders passed in the writ petitions relied upon by the learned counsel for the petitioner were not challenged by the respondent and therefore, the said orders have become final. Further, the learned Additional Government Pleader submitted that as per section 2(21) of the Motor Vehicles Act, Light Motor Vehicle means a transport bus or omni bus of the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed 7500 kilograms. Further, the learned Additional Government Pleader submitted that by letter dated 02.03.2015, the Transport Commissioner, Chennai, granted permission to register the vehicle viz., Mahindra Bolero Camper PS4WD 5 seater BS-III, as Light Motor Vehicle Goods Vehicle plus Normal Control, N1 Category, which is meant to be used as Goods Carriage only. That apart, the learned Additional Government Pleader also submitted that the petitioner's request to register the vehicle as Light Motor Vehicle for the purpose of carrying goods for personal agricultural use has been rejected by the authority. Further, the learned Additional Government Pleader submitted that as per section 2(47) of the Motor Vehicles Act, the petitioner's vehicle, which is used for carrying goods, have to be registered as goods carriage and every goods carriage is a transport vehicle.

5. Since this court had taken the view that the application submitted by the petitioner for registering Mahindra Bolero Camper vehicle as non-transport Light Motor Vehicle can be considered by the authority in W.P.No.5532 of 2015 and in W.P.No.34430 of 2014, which had become final, I am of the view that the same order can be followed in the present writ petition also.

6. Following the order passed in W.P.No.34430 of 2014, dated 30.10.2015, the impugned order dated 19.02.2016 passed by

the respondent is set aside and the matter is remitted back to the respondent to consider the petitioner's application for registering the vehicle as non-transport vehicle, within a period of four weeks from the date of receipt of a copy of this order.

With this observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Rj

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Registering Authority-Cum-
Regional Transport Officer,
Pollachi, Coimbatore District.

+ 1 cc to Mr.K.Hariharan, Advocate Sr 23034

+ 1 cc to The Govt.Pleader, Sr 23151

KR/15/4/16

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