

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.07.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.29437 and 29438 of 2015

and M.P.Nos.1 & 2 of 2015

S.Usha [Petitioner in W.P.No.29437/15]

R.Kalaiselvi [Petitioner in W.P.No.29438/15]

Vs

- 1 The Secretary  
Transport Department  
Government Tamil Nadu  
St. George Fort Chennai-9.
- 2 The Joint Transport Commissioner  
O/o.The Transport Commissioner  
Chepuak Chennai-5.
- 3 The Director  
Northern Region Farm Machinery Training & Testing  
Institute, Hisar, Haryana-125 001.
- 4 Tvl. Tractors and Farm  
Equipments Ltd. (TAFE)  
No.35 Nungambakkam High Road  
Thirumurthy Nagar Nungambakkam  
Chennai-34. [Respondents in both Petitions]

Prayer: These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of certiorarified mandamus calling for the entire records connected with the Registration Approval No.80/2010 vide Letter No.H3/ 61592/09 dated 22.3.2010 by the 2nd respondent and quash the same consequently direct the 2nd respondent to take appropriate action against the 4th respondent for its false/ misrepresentation while obtaining the permission for registration of Tractor Driven Combine Harvester

For Petitioners : Mr.K.Jayaraman

For Respondents

1 and 2 : Mr.R.Lakshmi Narayanan, AGP

O R D E R

The petitioners are agriculturists and they have filed these writ petitions challenging the proceedings of the 2<sup>nd</sup> respondent dated 22.03.2010, in and by which, the 2<sup>nd</sup> respondent has granted approval for registration of CRUZER-7504 Overall dimension Tractor Driven Combine Harvester, manufactured by the 4<sup>th</sup> respondent.

2. The ground on which the above proceedings has been challenged is that the Combine Harvester purchased by the petitioners did not conform to the standard specification approved by the 3<sup>rd</sup> respondent in proceedings dated 28.07.2009. The 3<sup>rd</sup> respondent, is a Government of India Organization under the Aegis of the Ministry of Agriculture and every manufacturer who manufactures harvesting equipments and other similar equipments has to submit an application before the 3<sup>rd</sup> respondent for testing their product. The product so tested for its viability and specification is then certified by the 3<sup>rd</sup> respondent and such certification can be used by the manufacturer for obtaining registration approval from the respective transport authorities of the various states so as to enable them to register the vehicle under the provisions of the Motor Vehicles Act, 1988 and the rules framed thereunder.

3. The learned counsel for the petitioners pointed out that the approved technical specification of the product more particularly with regard to the drive wheels is as follows:-

Rear Wheel (Drive Wheels)  
"No. of wheels : Two

Track width (mm) : 1524 to 1930 (Adjustable in  
step of 102mm) 1602 (Std.  
Wheel track)

Type size and ply rating : 12.4 x 24, 8PR

Maximum loading  
capacity at pressured  
220 (2.2) Kpa (Kgf./cm ) : 230 (2.2)".

Front Wheels (Steered Wheels)

"No. of wheels : Two

Track width range(mm) :1524 to 2134 (Adjustable in  
stop of 102 mm) 1625 (Std.  
Wheel track)

Type size and ply rating : 18.4 x 30, 14PR

Maximum loading  
capacity at pressured  
110(1.1) Kpa (Kgf./cm ) : 4536".

It is submitted that if the 4<sup>th</sup> respondent had manufactured the product and submitted the same for testing in compliance with the above referred conditions, then it is a properly certified and approved product. It is alleged by the petitioner that the product manufactured by the 4<sup>th</sup> respondent did not adhere to the above specifications. The description with regard to the size and plying rate of tyres as declared by the manufacturer for the front axle and rear axle were as follows:-

"Front axle x 2 : 12.4 x 24 - 8 PR

Rear Axle x 2 : 18.4 x 30 - 14 PR"

It is seen that the 2<sup>nd</sup> respondent has referred to the particulars furnished by the 4<sup>th</sup> respondent required for the RC book entries, in which the front axle and rear axle rating has been mentioned as 8 PR and 14 PR respectively. However, the ply rating for the following as per the approved specification of the 3<sup>rd</sup> respondent is as follows:-

"Rear Wheel 8 PR  
Front Wheel 14 PR"

Thus, it is alleged by the petitioner that what has been manufactured by the 4<sup>th</sup> respondent as mentioned above did not adhere to the certification standards, rather, it was a converse of what was approved. It appears that the 2<sup>nd</sup> respondent did not notice the same and proceeded to grant permission to register the above motor vehicle on the basis of the testing certificate give by the Northern Region Farm Machinery Training and Testing Institute.

4. The petitioners, as agriculturists, had purchased the Combine Harvester, availing financial assistance from M/s Sundaram Finance Limited. Repeated manufacturing defects occurred in Combine Harvester which resulted in severe financial hardship to the petitioner, apart from they being unable to utilize the Combine Harvester. Certain third parties who also faced similar problems sought for information from the 3<sup>rd</sup> respondent under the Right to Information Act, for which, the Officer of the 3<sup>rd</sup> respondent

department, by reply dated 20.06.2012 has furnished the following information:-

"The given Front Axle weight (FA) is the weight in transport condition of the combine harvester. The cutter bar was mounted on the trailer behind the combine harvester. Front Axle with the full load of paddy in the tank and the cutter bar Fitted on operating condition has not been measured at the Institute during Inspection of machine fro CMVR compliance".

5. From the above information, it is stated by the petitioner that the information furnished by the 4<sup>th</sup> respondent did not meet the standards specified by the Certifying Agency. The learned counsel for the petitioners submitted that this problem has arisen only in respect of 21 Combine Harvesters sold in the State of Tamil Nadu and the 4<sup>th</sup> respondent has rectified the manufacturing defects and brought it in tandem as per the certification given by the 3<sup>rd</sup> respondent Organization.

6. Though the above grounds have been raised by the petitioners, in my view, this cannot be a ground to set aside the order passed by the 2<sup>nd</sup> respondent dated 22.03.2010, as even according to the petitioners, this problem arose only in 21 vehicles. Therefore, instead of setting aside the impugned orders, this court is of the view that the above matter should be brought to the notice of the 2<sup>nd</sup> respondent, who shall take a decision in the matter, after hearing the 4<sup>th</sup> respondent and examine as to whether the issues pointed out by the petitioners had resulted in the manufacturing defect apart from misleading the 2<sup>nd</sup> respondent while obtaining the impugned certification/registration approval.

7. In view of the above, the writ petitions are disposed of by directing the petitioners to submit a detailed objection along with all supportive documents to the 2<sup>nd</sup> respondent along with a copy of this order and on such a representation being submitted, the 2<sup>nd</sup> respondent, shall issue notice to the petitioners as well as the 4<sup>th</sup> respondent and hear the parties in person and pass a reasoned order on merits and in accordance with law, uninfluenced by any observation made in this order. It will be then open to the 2<sup>nd</sup> respondent to call for particulars from the 3<sup>rd</sup> respondent Organization so as to pass an appropriate order on the petitioners' representations. The above direction be complied with, within a period of six weeks from the date of receipt of the representation to be submitted by the petitioner.



No costs. Connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1 The Secretary  
Transport Department  
Government Tamil Nadu  
St. George Fort Chennai-9.

2 The Joint Transport Commissioner  
O/o.The Transport Commissioner  
Chepuak Chennai-5.

3 The Director  
Northern Region Farm Machinery Training  
Institute, Hisar, Haryana-125 001.

2 ccs to Mr.K.Jayaraman, Advocate, sr.40960

1 cc to The Government Pleader, sr.40641

W.P.Nos.29437 and 29438 of 2015

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