

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.4569 of 2017
And
W.M.P.No.4780 of 2017

M.Venkatesan ... Petitioner
Vs.

- 1 The Secretary
Ministry of Road Transports & Highways,
Union of India,
New Delhi.
 - 2 The Secretary
Home (Transport) Department,
Fort.St.George,
Chennai - 600 009.
 - 3 The Transport Commissioner
Chepauk,
Chennai - 600 005.
 - 4 The Regional Transport Officer,
Chennai (East),
Chennai - 600 078.
- ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 4th respondent to grant exemption from fixing a speed governor as per the instructions of the 3rd respondent in Letter No.15257/H3/2016 dated 13.04.2016 in respect of the petitioner's vehicle bearing Registration No.TDM 5379 - Goods Carriage Vehicle which cannot exceed more than 80 kilometres of speed limit per hour and further to direct the 4th respondent to grant the fitness certificate to the petitioner's vehicle.

For Petitioner : Mr.S.Govindraman
For Respondent : Mr.Veludoss for R1
Mr.Akhil Akbar Ali for R2 to R4
Government Advocate

O R D E R

1.Issue notice. Mr.Veludoss, learned counsel, accepts notice on behalf of respondent no.1. Mr.Akhil Akbar Ali, learned Government Advocate, accepts notice on behalf of respondent nos.2 to 4. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.The limited relief that the petitioner seeks is that, respondent no.4 should consider the petitioner's request for granting exemption in terms of clarification dated 13.04.2016, issued by the transport department, qua, the notification dated 15.04.2015, bearing no.G.S.R.No.290 (E).

3.It is the petitioner's claim that he is the owner of a 1984 model vehicle manufactured by M/s.Ashok Leyland. According to the petitioner, the unladen weight of the said vehicle is 5890 Kgs, while Gross laden weight (as per the permit appended at page 14 of the typed set of documents) is 15975 Kgs.

4.The petitioner claims that he does not need to install a speed governor, in view of the notification dated 15.04.2015 read with clarificatory notification dated 13.04.2016, as the subject vehicle is inherently, incapable of clocking speed over 80 Km per hour.

4.1.It is, in this context, that the instant writ petition has been filed.

5.Mr.Akhil Akbar Ali, who appears for respondent nos.2 to 4, says, that if, the vehicle is produced for examination, the same will be tested and the contention made before the Court on behalf of the petitioner, will be verified in the light of the notification dated 15.04.2015, read with, clarification issued by the transport department on 13.04.2016.

6.Accordingly, the writ petition is disposed of with a direction to respondent no.4, to entertain the request of the petitioner, for grant of exemption from notification dated 15.04.2015, as clarified by the transport department's notification dated 13.04.2016.

6.1. IN this behalf, respondent no.4 will have the subject vehicle examined and only thereafter, grant exemption, if the petitioner comes, within the purview of the clarification notification, dated 13.04.2016, issued by the transport department.

6.2.It is made clear that, if, it is, found at some stage that the certificate issued by respondent no.4 is not accurate, the concerned officer will be held responsible for the same.

7.The writ petition is disposed of in the aforementioned terms. Consequently, the connected pending application is also closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

- 1 The Secretary
Ministry of Road Transports & Highways,
Union of India,
New Delhi.
- 2 The Principal Secretary,
Home (Transport) Department,
Fort.St.George,
Chennai - 600 009.
- 3 The Transport Commissioner
Chepauk, Chennai - 600 005.
- 4 The Regional Transport Officer,
Chennai (East),
Chennai - 600 078.

+1cc to Mr.Veludas, Advocate Sr.11542
+1cc to M/S.S.Govindraman, Advocate Sr.12353

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