

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.6730 of 2017

and

W.M.P.No.7266 of 2017

K.Sekar

...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 (North East)
Chennai.

..Respondents.

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Mandamus to direct 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.TN 04 0905 - Heavy Goods Carriage Vehicle which cannot exceed more than 80 kilometers 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 Respondents..Mr.K.Raju for R1

Standing Counsel

Mr.Akhil Akbar Ali,

Government Advocate for R2 to R4.

O R D E R

The petitioner seeks for a Mandamus to direct the 4th respondent to grant exemption from fixing a speed governor as per the instructions of the 3rd respondent in letter dated 13.04.2016 in respect of the petitioner's vehicle bearing Registration No.TN 04 0905.

2. Mr.K.Raju, learned Standing Counsel takes notice for the first respondent and Mr.Akhil Akbar Ali, learned Government Advocate takes notice for respondents 2 to 4. By consent of the parties, the writ petition itself is taken up for final disposal at the admission stage.

3. The petitioner claims to be the owner of the Heavy goods carriage vehicle bearing Registration No.TN 04 0905. As per the amended Rule 118 of the Motor Vehicles Rules, the speed governor has to be fitted in every transport vehicle notified by the Central Government in respect of the vehicles manufactured on or after 01.10.2015, having maximum pre-set speed of 80 kilometers per hour. According to the petitioner, the petitioner's vehicle will not achieve or cross more than 80 kilometers per hour and therefore, there is no necessity to fit speed governor in the said vehicle. When the fitness certificate issued to the petitioner vehicle expired on 25.02.2017 and the petitioner approached the Office of the Regional Transport Officer, Chennai North East, for issuance of fresh fitness certificate, it is stated that the petitioner was directed to fit the speed governor in the said vehicle for the purpose of issuing the fitness certificate. Therefore, the petitioner has come out with the present writ petition stating that when the vehicle does not require fitting of such speed governor, as it is not going to exceed the speed limit of 80 kilometer per hour, the respondents are not justified in insisting upon the petitioner to fit in such speed governor.

4. Learned counsel for the petitioner, in support of such contention, relied on the order passed by this Court in similar matter in W.P.No.4570/2015 dated 23.02.2017.

5. A perusal of the said order would show that the petitioner therein was directed to produce the vehicle for examination before the concerned authority for testing and verification and thereafter the said authority was directed to consider the request for grant of exemption from notification dated 15.04.2015.

6. Considering the above stated facts and circumstances,

this writ petition is disposed of with a direction to the petitioner to produce the vehicle for examination before the 4th respondent within a period of seven days from the date of receipt of a copy of this order for testing and verification and on production of such vehicle, the 4th respondent shall test and verify and find out as to whether the vehicle belonging to the petitioner is entitled for exemption from the notification dated 15.04.2015 as clarified by the transport department notification dated 13.04.2016. If the 4th respondent finds that the petitioner's vehicle is entitled for such exemption, the same shall be granted accordingly, thereafter. All these exercise shall be done by the 4th respondent within a period of two weeks from the date of production of such vehicle. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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 (North East) Chennai.

VGII(CO)
RS(24/03/2017)

W.P.No.6730 of 2017