

THE HON'BLE THE ACTING CHIEF JUSTICE
RAMESH RANGANATHAN

&

THE HON'BLE SMT JUSTICE T. RAJANI

WRIT APPEAL No.18 of 2009

JUDGMENT: (Per Hon'ble Smt Justice T. Rajani)

This appeal, under clause 15 of Letters Patent, is preferred, assailing the order passed in WP.No.15992 of 2008 dated 13.11.2008. The appellants before us are the Joint Transport Commissioner and Secretary, Road Transport Authority, Hyderabad and the Secretary, Regional Transport Authority, South Zone, Hyderabad, who figured as respondents 2 and 3 in the writ petition, which was allowed in favour of the petitioner, who approached the court with a grievance that the respondents refused to register his vehicle, on the ground that, the chassis having been changed, it is at variance with the particulars specified by the manufacturer.

The writ petition was filed by the writ petitioner being aggrieved by the act of the Registration authorities in rejecting his plea for registration of his vehicle, a Toyota car, the chassis number of which is MBJ11JB4007072937/01/07. The vehicle was given temporary registration, with No.AP 09 CHT/R 4288 and the temporary registration was made on 05.03.2007. The vehicle met with an accident on 06.05.2007 and a report was lodged by the writ petitioner before the Police Station, Shamshabad. The vehicle was shifted to the company's workshop whereat it was informed to the petitioner that the chassis of the vehicle was completely damaged and it has to be replaced with a new one, as such, the replacement of chassis was done with new chassis bearing No.MBJ11JV4007089266-060. The old chassis was scrapped, as being totally damaged. The writ petitioner, after fulfilling all the requirements with the financier and the insurance company,

approached the third respondent therein – Secretary, Regional Transport Authority, along with an application dated 20.10.2007 seeking registration of the vehicle with new chassis number. The writ petitioner enclosed all the necessary documents like Forms 21 and 22, sale invoice, certificate issued by the police station, Shamshabad confirming the accident and letter of the dealer and the financier expressing no objection for the replacement of chassis. The writ petitioner's request to register the vehicle with new chassis number was rejected by way of order dated 21.01.2008 passed by the third respondent. The ground on which registration was rejected is that Section 52 of the Motor Vehicles Act, 1988 (for short 'the Act') precludes the owner of the vehicle from altering the vehicle.

The learned single Judge, in the order under appeal, set aside the order of the regional transport authority, dated 21.01.2008 and directed the third respondent therein to consider the application of the writ petitioner and register the vehicle of the petitioner, incorporating the new chassis number and issue necessary certificate of registration.

Impugning the said order, the appellants preferred this appeal on the grounds that the learned single Judge having held that no alteration is permitted under Section 52 of the Act, allowed the writ petition, which is absolutely illegal. The order is also illegal, as the writ petition was allowed on the ground that the insurance company and the manufacturer have changed the chassis and as such, directing the registering authority to register the vehicle, for that reason, is contrary to Section 52 of the Act. The learned single Judge failed to see that the chassis was replaced contrary to Section 52 of the Act without the permission of the registering authority.

Heard the counsel appearing on both sides.

Learned Government Pleader for Roads and Buildings, appearing for the appellants, while contending that Section 52 of the Act does not permit any alteration to be made to the motor vehicle, which is at variance with the particulars originally specified by the manufacturer, relies on a Full Bench judgment of this court in *A. CHANDRA SEKHAR REDDY v. UNION OF INDIA*¹ and a decision of a learned single Judge in *E. DASTAGIRI v. REGIONAL TRANSPORT OFFICER*² to draw support to his contention. When we expressed with the learned Government Pleader, whether the owner of a vehicle, whose vehicle is involved in an accident and the entire chassis of which gets damaged, has no other remedy except to abandon the vehicle, the learned Government Pleader would submit that the law is such. But we have to express our inability to accept the said opinion, because accepting the contention of the learned Government Pleader would be to the shock of the conscience of any prudent person.

A reading of Section 52 of the Act would only lead us to an understanding that what is incorporated in Section 52(1) of the Act is a general norm that the vehicle, which is delivered by the manufacturer, should be the same, as is brought for registration before the registering authority. It cannot by any stretch of interpretation be understood as a clog on every alteration, much less on an alteration which is compelled by circumstances beyond the reach of the owner. In a case like the one before us, if the section is read with an understanding with which it is sought to be read by the learned Government Pleader, it would amount to putting a restriction

¹ (2002) 1 ALD 28 (FB)

² (2010) 6 ALD 35

on every kind of alteration, irrespective of the reasonableness of the alteration. If the interpretation has to go that way, it would lead to an absurd situation, where, if a vehicle gets involved in an accident, even while the vehicle is being brought from the showroom to the destination, resulting in total damage to chassis or for that matter any other part of the vehicle, the particulars of which are declared in the registration certificate, then the owner of the vehicle has to abandon the vehicle and sustain the loss. The prudence of the law makers would not be of the level of making a statutory provision, to result in telling off the victims of compelling circumstances and any endeavour, by the court, to gather such intention as underlying a provision of law, would be a travesty of justice.

Section 52 of the Act, which has five sub-sections, three provisos and an explanation, needs a harmonious construction to promote the object with which the provision is enacted.

The decision of the Full Bench in A. CHANDRA SEKHAR REDDY's case (1 supra) dealt with the vires of Section 52 of the Act, as amended by the Motor Vehicles Amendment) Act, 2000. The petitioners therein intended to convert their petrol vehicles into diesel vehicles by replacing petrol engine with a diesel engine. The Full Bench, while dismissing the writ petitions by upholding the constitutionality of the amendment, made several observations, which would be profitable in interpreting and constructing Section 52 of the Act. The entire march of Section 52 of the Act right from the year 1939 to the year 2000 was remembered by the Full Bench and it was concluded that the changes effected by the Parliament in a phased manner clearly go to show that though the earlier provision was merely regulatory, a prohibition has been imposed with a little elbow space therein. The manner in which the interpretation of sub-sections

of section 52 has to go on is also very succinctly explained by the Full Bench and it was also felt necessary that the proviso appended to sub-section (1) of Section 52 of the Act inserted by the Amendment Act 2000 must be read as to fulfil the objects and purpose of the Act. It is with that sense of interpretation that a purposive interpretation is permitted to be made, in a case like this, where the provision of law is not well worded. The Full Bench observed as under:

“Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted.”

The appellants-respondents in the counter filed to the writ petition also pleaded the Court to observe the march of Section 52 of the Act from the time it was enacted. It was urged that the restriction imposed in Section 52 of the Act was actually meant to prevent any alteration to the vehicle which leads to several complications, which include causing pollution etc. and that the latest amendment to Section 52 of the Act permitted alteration with certain conditions.

If the amendment has to be construed as being made to put a restriction on any kind of alteration, then the very object of Section 52 of the Act would get defeated. In E. DASTAGIRI's case (2 supra) the learned single Judge dealt with a case where the vehicle had seating capacity of 5 was modified to have seating capacity of 30. It was an ambulance, which was changed to Omni Bus, with the said modification. The learned single Judge held that it is hit by the prohibition under Section 52(1) by holding that it amounts to altering the basic feature of the vehicle.

A reading of Section 52 of the Act would show that, though in sub-section (1) it was stated that the owner of a motor vehicle shall not alter the vehicle resulting in non-matching of the particulars originally specified by the manufacturer, by virtue of the first proviso, alteration to the engine is permitted and the third proviso allows the Central Government to grant exemption for alteration of vehicles in a manner other than specified by sub-section (1) for any specific purpose. Hence, it can be understood from the third proviso that sub-section (1) did not intend to put a complete restriction on alteration of a vehicle. Sub-section (2) further supports the above understanding wherein a person, owning not less than ten transport vehicles, is permitted to alter any vehicle owned by him so as to replace the engine thereof with the engine of the same make and type without the approval of the registering authority and the State Government has to authorise the same by a notification in the Official Gazette subject to such conditions as may be specified in the notification.

Sub-section (3) of Section 52 requires the owner to report the alteration, when any alteration is made in the motor vehicle without the approval of the registering authority or by reason of replacement of its engine without such approval under sub-section (2). The underlying premise of Section 52(3) is that the alteration can be made in the motor vehicle with the prior approval of the registering authority. The obligation placed by Section 52(3), on the owner of the vehicle to report the alteration, is in two distinct and different contingencies. Firstly, where any alteration has been made in the motor vehicle without the approval of the registering authority, and secondly where the engine has been replaced without the approval of the registering authority. If Section 52(3) is understood as relating

only to the replacement of an engine without the approval of the registering authority under Section 52(2), it would have sufficed only to provide for the second contingency in the first limb of Section 52(3), and not the first. While Section 52(2) confines alteration of a motor vehicle only to the replacement of its engine, construing Section 52(3) as also being confined to the replacement of an engine would render the words “*where any alteration has been made in the motor vehicle without the approval of the registering authority*”, used therein, redundant. Likewise, reading Section 52(1) as an embargo on any kind of alteration of a motor vehicle, other than replacement of the engine, would render the aforesaid words in Section 52(3) inapposite *surplusage*.

The words “*any alteration*” in Section 52(3) mean any alteration made in the motor vehicle, and not merely the replacement of an engine. Whatever be the nature of alteration to the motor vehicle, if such alteration is made without the approval of the registering authority, the owner of the vehicle is obligated to report the alteration to the registering authority within fourteen days of making the alteration, and to forward the certificate of registration to that authority. The object of forwarding the certificate of registration is to enable the registering authority to record the alterations, made in the motor vehicle, in the certificate of registration. The word ‘or’, used in sub-section (3), shows that in either of the two contingencies, i.e., (1) where any alteration has been made in a motor vehicle without the approval of the registering authority or (2) by reason of replacement of the engine of the motor vehicle without such approval under sub-section (2), the obligation placed on the owner of the vehicle under Section 52(3) necessitates compliance. The words “or” would allow us to hold, without much demur, that there can be alteration of a

vehicle subject to the condition that the same has to be informed to the registering authority within fourteen days.

Sub-section (5) also needs to be read along with sub-section (3) of Section 52 to understand the rights of the owner in making alteration. It specifies that, subject to the provisions under sub-sections (1) to (4), no person holding a vehicle under a hire-purchase agreement shall make any alteration to the vehicle except with the written consent of the registered owner. Hence, a clear implication flows from sub-section (5) that, with the consent of the registered owner, alteration can be made by the hire-purchaser, if the vehicle is subject to hire-purchase agreement. When, within the meaning of sub-section 5, the owner is competent to allow alterations, it sounds tad ridiculous to say that the owner can only permit alterations but cannot by himself make alterations.

In that background too, to say that an owner does not have a right to alter the vehicle and any such alteration which is contrary to the particulars specified by the manufacturer is impermissible, would be absurd. One cardinal rule of interpretation is that the interpretation of any statute or any provision of a statute should not result in absurdity. Putting such construction on a provision of law will not be in the interest of anyone concerned.

Apart from all the sub-sections of Section 52 of the Act, from which the above opinion can be gathered, the explanation to the above Section further becomes a good guidance to see whether alterations to a motor vehicle is permissible. The explanation is as follows:

“Explanation.- For the purposes of this Section, “alteration” means a change in the structure of vehicle which results in a change in its basic structure.”

The Learned single Judge also, ultimately, held that there is no alteration, in this case, which resulted in a change in the basic structure and, thereby, allowed the writ petition.

The Full Bench in its judgment also referred to a Division Bench judgment of Kerala High Court in *T. RADHAMANI v. JOINT REGIONAL TRANSPORT OFFICER* [AIR 1997 KER 85] wherein the alteration was reduction of the seating capacity. It was held therein that it does not come within the purview of sub-section (1) of Section 52 of the Act. The Full Bench also observed that the phraseology used in Section 52 of the Act may not be happy or the Section may not be happily worded but we have to give a purposive meaning thereto.

On a reading of Section 52 as a whole, it is clear that sub-section (1) disables the owner of the vehicle, ordinarily, from so altering the vehicle which would result in variance of the particulars contained in the certificate of registration with those originally specified by the manufacturer. Even in those rare cases, where such an alteration has been made in the motor vehicle without the approval of the registering authority, Section 52(3) obligates the owner of the vehicle to report the alteration to the registering authority, and forward the certificate of registration to enable him to record the alterations, made to the motor vehicle, in the registration certificate. If we understand sub-section (1), as a restriction on every alteration, we would be ignoring both the first limb of Section 52(3) and the explanation part of Section 52 of the Act, and that is impermissible.

As we do not find any infirmity, much less a patent illegality, in the order under appeal, we see no reason to interfere in an intra-court appeal under clause 15 of the Letters patent. The appeal fails and is, accordingly, dismissed. Consequently, pending miscellaneous

applications, if any, shall stand closed. There shall be no order as to costs.

RAMESH RANGANATHAN, HACJ

T. RAJANI, J

June 20, 2017

Note: L.R. copy to be marked
(B/ o) DSK

