

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.9570 OF 2017

ORDER:

Petitioners are owners of Light Motor Vehicles (Taxies) registered with the 3rd respondent. The petitioners, who had purchased the vehicles in 2015 and 2016 by availing finances, plying vehicles on hire basis registered under the taxi quota/public transport vehicle. The petitioners had also paid the taxes as applicable to the public transport vehicle (taxi). Initially the fitness certificates issued to the petitioners' vehicles are valid for a period of two years which are required to be renewed after initial period of two years. The renewal of fitness certificate is governed by Section 56 the Motor Vehicles Act, 1988 (for short, "the Act"), read with Rules 62, 81 of the Central Motor Vehicles Rules, 1989 (for short, "the Rules") and the corresponding Rules 107 to 112 and 116 to 123 of the A.P. Motor Vehicles Rules, 1989.

It is the case of the petitioners that the system of seeking renewal of the fitness certificates to the Light Motor Vehicles, in the State of Telangana, has been made online. When the petitioners tried to open the web portal for making renewal of their fitness certificates, the web portal was not accepting the request of the of the petitioners. Hence, the present writ petition is filed seeking a writ of *Mandamus* to the respondent authorities to receive the applications of the petitioners for renewing their fitness certificates.

On notices being issued, counter-affidavit is filed by the 3rd respondent stating that the petitioners' vehicles are all Bharath Stage-III (for short, "the B.S-III), standards Motor Cabs from

M/s. Malik Cars, Tejaswi Motors and Concorde Motors, which are prohibited to be registered in Hyderabad, Hyderabad Divisions, to circumvent the said ban, all the petitioners in collusion with the dealers have approached the 3rd respondent at Sanga Reddy wherein there is no prohibition in relation to registration of B.S-III model vehicles. However, while getting registration, petitioners had furnished the fake addresses and the fake addresses proofs and thereby by misleading the respondent authorities to get the registration done at Sanga Reddy. It is found that there are about 420 vehicles were registered at Sanga Reddy by adapting the method as stated above. It is also further asserted that the disciplinary proceedings have been initiated against the officials concerned and also notices have been issued to the dealers of the vehicles. It is further asserted that the notices were issued to all the petitioners calling for explanation as to why the registration made in their favour shall not be cancelled but except the 8th petitioner none of other petitioners have responded to the said notices. In those circumstances, the petitioners are not entitled for the reliefs as claimed in the writ petition.

Having considered the respective submissions, it may be noted that grant of renewal of fitness certificate is governed by Section 56 of the Act. Rule 62 of the Rules, *mandate* the renewal of the fitness certificate after initial period of two years and thereafter every year. Table in Rule 62 of the Rules also specify the parameters which are required to be complied before granting renewal of the fitness certificate. A perusal of the items mentioned in the table disclose that they all relate to the mechanical testing of the various parts of the vehicle and vehicle components like Spark

plug/suppressor cap/High Tension cable, Head Lamp Beams, Other lights, Reflectors, Bulbs, Rear View Mirror, Safety Glass, Horn, Silencer, Dash Board equipment, Wind Shied wiper, Exhaust emission, Braking system, Speedometer, Steering gear. The testing is required to be done by the authorized testing stations. In other words, the role of the 3rd respondent is limited to the extent of overseeing the testing operations and ensuring the test is being conducted by the authorized testing stations. Though it is not specifically stated that the testing is not being done, there is no objection or contention that the petitioners are not willing to comply with any of the formalities that are required to be complied with in terms of the provisions of Rules. It is not denied by the respondents that the web portals in relation to the petitioners' vehicles have been closed and the same is sought to be justified on the ground that the petitioners have provided with the fake addresses and got their vehicles registered at Sanga Reddy by misleading the authority. It may or may not be open for the respondent authorities to take action in relation to submission of the alleged fake addresses. At this stage, so far as this writ petition is concerned, this is strictly confined to the respondent authorities not accepting and processing the applications of the petitioners for grant of fitness certificates. It may be noted that as long as the registration granted in favour of the petitioners is in subsistence and subject to the condition of the petitioners complying with the requirements of payment of the prescribed fees and producing the vehicles before the authorized testing stations, the respondent authorities, cannot deny the right of the petitioners for seeking fitness certificates of the vehicle as fitness certificates

are essential is in relation to testifying the roadworthiness of the vehicles. The same has nothing to do with the registration of the vehicle.

In those circumstances, the writ petition is allowed directing the respondent authorities to allow the petitioners forthwith to submit their applications through online and process the same as expeditiously as possible and complete the testing formalities within a period of two weeks from the date of receipt of copy of this order. However, it is made clear that the respondent authorities may take action against the petitioners for furnishing the alleged fake addresses and getting their vehicles registered, in accordance with law. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 06.04.2017,

Note:

Issue cc forthwith.

B/o.

Gk

CHALLA KODANDA RAM, J

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