

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Appeal No.1307 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the ad-interim order passed by the learned Single Judge in W.P. No. 13158 of 2017 dated 12.6.2017, whereby the respondent-authorities were directed to issue a temporary registration certificate in respect of the petitioner's vehicle on condition that the petitioner furnished an affidavit, with an undertaking, that she would use the vehicle in future only to the extent of 35.2 tonne capacity.

The case of the appellants herein is that, while the subject vehicle was registered at Vizianagaram with a laden weight of 34.52 tonnes, it was taken to Nagaland and registered at a higher laden weight of 40.2 tonnes; thereafter the vehicle was again brought to Anakapalli for effecting change of address; and, as no permission was granted by the authorities at Vizianagaram, the respondent-writ petitioner could not have changed the laden weight and secured registration with the authorities at Nagaland, and then to have brought the subject vehicle to Anakapalli for a change in address.

Learned Government Pleader for Transport, appearing on behalf of the appellants, would submit that a temporary registration Certificate is granted only for one month for a new vehicle to enable the vehicle owner to obtain permanent registration; and since this vehicle has already been permanently registered earlier by the authorities at Vizianagaram, neither the Motor Vehicles Act, nor the Rules made thereunder, provide for temporary registration being granted for such a vehicle.

Sri P. Veerraju, learned counsel for the respondent-writ petitioner, would submit that the respondent-writ petitioner had issued a stoppage

order, and had intimated the same to the authorities at Vizianagaram; she had, thereafter, obtained registration with the authorities at Nagaland; and even if the registration of the vehicle at Nagaland, without a certificate being issued by the Vizianagaram authorities, is held to be illegal, the impugned order passed by the 3rd appellant must also be set aside as it is without jurisdiction. When we specifically asked Sri P. Veerraju, learned counsel for the respondent-writ petitioner, to show us any statutory provision which enables grant of a temporary registration certificate for a vehicle which had already been registered, learned counsel would express his inability to do so and would fairly state that, while the order passed by the learned Single Judge is not referable to any statutory provision, the said order was passed in the interest of justice.

While the jurisdiction exercised by this Court, under Article 226 of the Constitution of India, is no doubt wide, and is not circumscribed save by self-imposed restraints, this Court, while passing an order, would always bear in mind that the order so passed is not contrary to law. As it is admitted that there is **no** statutory provision, enabling grant of a temporary registration certificate for a vehicle which has already been permanently registered, the order under appeal, directing the appellants to grant a temporary registration certificate, is contrary to law, and necessitates being set aside. The order under appeal is, therefore, set aside.

While Sri P.Veerraju, learned counsel for the respondent-writ petitioner, would question the validity of the order, impugned in the Writ Petition, on several other grounds, we cannot lose sight of the fact that the appeal is preferred by the State Government against the interim order passed by the learned Single Judge, and not by the respondent-writ petitioner. Suffice it, therefore, to observe that the order now passed by us shall not disable the respondent-writ petitioner from raising all such contentions before the learned Single Judge, as are available to her in law, while seeking an interim order in the WPMP.

The Writ Appeal is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M. GANGA RAO, J)

13th October, 2017

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