

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.86 OF 2014

Iftekhhar Ahmed Khan s/o Khurshid Ahmed Khan,
Age : 40 years, Occu. Business,
R/o Flat No.8, Haq Tower,
Railway Station Area, Aurangabad

PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary,
State Transport Department
Mantralaya, Mumbai
2. The Commissioner of Transport,
3rd & 4th Floor, Administrative Building,
Opp. Dr. Babasaheb Ambedkar Garden
Govt. Colony, Bandra (East), Mumbai
3. The Regional Transport Officer,
R.T.O. Office, Railway Station Road,
Aurangabad

RESPONDENTS

.....
Mr. Vishwajit R. Jain (Kamboj), Advocate for the petitioner
Mr. S.G. Karlekar, A.G.P. for the respondent
.....

**CORAM: PRADEEP NANDRAJOG, CJ &
R.G. AVACHAT, J.**

DATE: 23.09.2019

PER COURT :

- 1] Heard learned counsel for the parties.
- 2] Challenge in the Public Interest Litigation is to the Circular dated 16th January, 2013 doing away with the requirement of recording in the fitness certificate that the alignment of the front wheel of motor vehicles in the State of Maharashtra has been checked.
- 3] To understand the grievance raised, reference could be made to Rule 62 of the Central Motor Vehicle Rules, 1989. The form of certificate contemplated by the same excludes a reference to inspecting the alignment of the front wheel of a motor vehicle. However, Rule 45 of the Maharashtra Motor Vehicle Rules, 1989 specifies a form vide Sub-Rule (11) thereof and the form mandates that the Inspector of Motor Vehicles has to record in the certificate of fitness that the alignment of the front wheel of the motor vehicle has been checked.
- 4] Since the form prescribed under the Central Motor Vehicle Rules excluded a reference to the inspection of the alignment of the front wheel of a motor vehicle, the circular in question does away with the

requirement of recording in the certificate of inspection that the alignment of the front wheel has been checked.

5] The requirement is to the effect that while inspecting the motor vehicle for issuance of fitness certificate, the alignment of the front wheel is checked but is not so reflected in the certificate of fitness for the reason the Central Legislation does not mandate so.

6] Suffice it to state that an entry in the concurrent list resulting in a Central Legislation as also the State Legislation, pertaining to the areas not occupied by the Central Legislation can be occupied by the State Legislation and thus, it can be argued that the State Legislation has to be given effect to.

7] However, we note that on 1st September, 2019, the Motor Vehicles Act, 1988 has been amended and as per amended Section 56, the certificates of inspection have to be issued by authorized Testing Stations notified by the State Government. The fitness certificates have to be in accordance with the Rules made by the Central Government.

8] Learned counsel for the respondents states that as per the

amended Central Motor Vehicle Rules, the authorized Testing Stations have to test the alignment of the front wheel of a motor vehicle and so record in their reports, meaning thereby, the stand of the respondents is that henceforth the fitness certificates would refer the fact that the alignment of the front wheel of a motor vehicle has been checked.

9] Thus, no mandamus as prayed for needs to be issued. However, the respondents would be bound by the stand taken by their counsel and ensure that henceforth the fitness certificates issued by the authorized Testing Stations record that the alignment of the front wheel of a motor vehicle is as per the requirement of law.

10] The Public Interest Litigation is disposed of.

11] No costs.

(R.G. AVACHAT, J.)

CHIEF JUSTICE