

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 747 OF 2019**

EKNATH SAWAIKAR.

... Petitioner

Versus

THE STATE OF GOA, REP. BY

SECRETARY (TRANSPORT) AND 4 ORS.

... Respondents

Mr. Ryan Da Piedade Menezes and Mr. Nigel Fernandes, Advocates
for the Petitioner.

Mr. Pravin N. Faldessai, Addl. Government Advocate for the
Respondents.

**Coram:- M. S. SONAK &
C. V. BHADANG, JJ.**

Date:- 28th November, 2019

P.C.

Heard Mr. Menezes, learned counsel for the Petitioner and
Mr. P. Faldessai, learned Addl. Government Advocate for the
Respondents.

2. The challenge in this petition is to the impugned order
dated 27th November, 2018 by which the Respondent No.4 declined
the Petitioner's request to register his vehicle as a Light Motor Vehicle

(LMV) instead of Light Commercial Vehicle (LCV).

3. Mr. Menezes, learned counsel for the Petitioner contends that the Motor Vehicle Act confers sufficient discretion upon the Respondent No.4 to register the vehicle in question as LMV notwithstanding the fact that the certificate issued by the Automotive Research Association of India (ARAI) has classified the vehicle as goods carrier-N1 i.e. LCV. Mr. Menezes submits that this discretion which is conferred in the Parent Act could never have been watered down by the rules, which are, subservient to the Parent Act. He submits that such discretion has not been exercised properly by the Respondents in the present case. He submits that the Petitioner has given several instances, including by way of photographs and specifications, from which it is evident that identical or in any case similar vehicles have been registered as LMV. He therefore submits that there is infringement of guarantee of equality as enshrined in Article 14 of the Constitution of India.

4. Mr. Faldessai, learned Addl. Government Advocate submits that in all the instances referred to by the Petitioner, the sales certificate or the certificate issued by the ARAI had clearly indicated

that the vehicle in question was LMV and accordingly the registration was granted to such vehicle as LMV. He submits that in all cases the Registering Authorities go by the description in such certificate. He points out that in one of the cases, the vehicle which was classified in the certificate as LCV was granted registration as LCV itself but the owner of the vehicle wrongly, held out that he was granted registration as LMV. He submits that the action was taken in the matter and in fact, corrective measures have also been taken by the owner of the said vehicle. He therefore submits that there is no breach of Article 14 of the Constitution. He also submits that there is no inconsistency between the Act and rules.

5. According to us, since the Respondents, have followed the uniform policy of granting the vehicles which are classified by the ARAI as LMV or LCV, the registrations accordingly, there is no really case of any discrimination or infringement of Article 14 of the Constitution of India is made out.

6. At this stage, Mr. Menezes submits that the certificate issued by the ARAI is itself incorrect and seeks leave of this Court to amend the petition to challenge such certificate.

7. According to us, it will not be appropriate to grant leave to amend this petition considering the original structure and averments in the petition. However, we grant liberty to the Petitioner to file a fresh petition to challenge the certificate by impleading the ARAI as Respondent. If the Petitioner, succeeds in such challenge, no doubt, the Petitioner, at that stage can insist upon the registration of his vehicle as LMV and not LCV. Even the issue of the rule being *ultra vires* the Parent Act can also be kept open for consideration in such a petition.

8. Accordingly, we dispose of this petition with liberty as aforesaid.

9. We make it clear that we have not examined the merits of the proposed challenge to the certificate itself and therefore, we leave open, all rights and contentions of all the parties in this regard.

10. The petition is disposed of in the aforesaid terms. There shall be no order as to costs.

11. The Stamp Number (Appln.) No.4003 of 2019 does not

survive and the same is disposed of, again, with liberty as aforesaid.

C. V. BHADANG, J.

M. S. SONAK, J.

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