

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.74 of 2019

ORDER:

Petitioner is owner of Light Motor Vehicle (Motor cab) registered with the 3rd respondent. The petitioner, who had purchased the vehicle in 2015 by availing finance facility, plying the same on hire basis registered under the taxi quota/public transport vehicle. The petitioner had also paid tax as applicable to the public transport vehicle (taxi). Initially the fitness certificate issued to the petitioner's vehicle was valid for a period of two years and it is 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.

2. It is the case of the petitioner 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 petitioner tried to open the web portal for making renewal of his fitness certificate, the web portal was not accepting the same. Hence, the present writ petition is filed seeking a writ of *Mandamus* to direct the respondent authorities to receive the application of the petitioner for renewing his fitness certificate.

3. No counter-affidavit is filed by the respondents.

4. Having considered the facts and circumstances, it may be noted that grant of renewal of fitness certificate is governed by Section 56 of the Act. Rule 62 of the Rules *mandates* 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 with before granting renewal of the fitness certificate. A perusal of the items mentioned in the table discloses 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 petitioner is 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 petitioner's vehicle have been closed and the same is sought to be justified on the ground that the petitioner has provided with the fake address and got his vehicle 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 application of the petitioner for grant of fitness certificate. It may be noted that as long as the registration granted in favour of the petitioner is in subsistence and subject to the condition of the petitioner complying with the requirements of payment of the prescribed fees and producing the vehicle before the authorized testing stations, the respondent authorities, cannot deny the right of the petitioner for seeking fitness certificate of the vehicle as the said certificate is

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

5. In those circumstances, the writ petition is allowed, directing the respondent authorities to allow the petitioner forthwith to submit his application 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 petitioner for furnishing the alleged fake address and getting his vehicle registered, if any, in accordance with law. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

3rd January, 2019

CHALLA KODANDA RAM, J

sj