

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

W.P.No. 36270 of 2017

ORDER:

Heard learned counsel for petitioners and learned Government Pleader for Transport.

2. All the petitioners herein claims to have purchased two wheelers on 31.3.2017 and when they presented their vehicles for registration, the registering authority refused to register the vehicles on the ground that the vehicles are not in compliance of BS-IV norms, which are mandatory and therefore no vehicle can be registered without complying BS-IV norms. Being aggrieved by the same, this writ petition is instituted.

3. Though an interim order was passed by this Court, temporary registration is not granted to the vehicle owners. Having regard to vehicular pollution, certain norms are prescribed which the motor vehicles are required to comply. On review of vehicular pollution, BS-IV norms are introduced with effect from 1.4.2017 for all two wheeler vehicles in the country. Thus, manufacturers and distributors are not authorised to manufacture and distribute the vehicles which are not in compliance of BSIV norms after 31.3.2017. This issue of implementation of norms was considered by the Hon'ble Supreme Court in W.P (C) No.13029 of 1985 in ***M.C.Mehta v. Union of India***, which was on the issue of emission of vehicular pollution on the roads. In I.A.Nos.487, 489, 491, 494 and 495 of 2017 in the above writ petition, the Hon'ble Supreme Court passed a detailed order on 13.4.2017. At paragraph 35 of the said order, the Apex Court ordered that two wheelers which are purchased in compliance of BS-III norms on or before 31.3.2017 be permitted for registration on proof of

purchase made on or before 31.3.2017. Paragraph 35 of the said reads as under:

“It appeared to us that if someone was to make a *bona fide* purchase of a BS-III complaint vehicle on or immediately before 31st March 2017 it might not be possible for that individual to have the vehicle registered before the cut-off date. Therefore, we felt it reasonable to permit the registration of BS-III complaint vehicles purchased on proof on or before 31st March 2017 from 1st April 2017 and have ordered accordingly”.

4. Learned counsel for petitioners by placing reliance on the said directions of the Hon’ble Supreme Court submits that all the vehicles of the petitioners were purchased on 31.3.2017 and therefore same ought to have been registered and not registering the vehicles is illegal. Along with the writ petition, petitioners have filed relevant documentary evidence i.e. invoices and receipts issued by the Distributors concerned on 31.3.2017, evidencing sale of two wheelers to the petitioners and in many cases vehicle insurance receipts dated 31.3.2017.

5. According to learned Government Pleader, registration of vehicles with BS-III norms was kept open till midnight of 31.3.2017 and many persons have applied for temporary registration through online till 02 a.m. on that date. Thus, petitioners could have registered on that date.

6. He would therefore submit that petitioners did not purchase the vehicles on or before 31.3.2017. The various documents to support claim of petitioners on or before 31.3.2017 are all anti-dated, therefore they are not entitled to seek registration and rejection of registration was validly done.

7. The material on record would disclose that the vehicles were purchased on 31.3.2017 and in many cases even vehicle was insured on the same day. However, directions of the Hon'ble Supreme Court are only confined to production of proof of purchase made on or before 31.3.2017. In view thereof, the action of the respondents in not registering the vehicles purchased on or before 31.3.2017 is not valid.

8. Therefore, the writ petition is allowed, directing the respondent-registering authorities to register the vehicles of the petitioners without insisting for compliance of BS-IV norms subject to petitioners producing valid motor vehicle insurance at the time of presentation of vehicles for registration and also subject to compliance of all other required formalities viz., payment of life tax and insurance etc. It is seen that though the interim orders were passed by this Court, the vehicles were not registered. In other words, petitioners were made to operate their vehicles without having valid registration, which is again making them to commit illegality. These two wheelers are essential to commute as part of their employment/business/education. There is no option but to use the vehicles purchased with hard earned money and with parents' contribution. Merely because vacate petition is filed is no ground to refuse implementation, more so, in view of direction of Hon'ble Supreme Court. Having regard to the fact that for more than 2 ½ years orders are violated without any justification depriving petitioners from using their vehicles properly, the respondent registering authorities are directed not to collect any penal charges or penalties from the petitioners at the time of registration of vehicles. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

Date: 14.11.2019
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