

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP No. 22025 of 2019 (O&M)
Date of decision: July 14, 2020

Ranjit Malhotra

...Petitioner

Versus

Union Territory, Chandigarh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Puneet Bali, Senior Advocate with
Mr. Vaibhav Jain, Advocate,
for the petitioner.

Mr. Pankaj Jain, Sr. Standing Counsel,
for U.T., Chandigarh.

JAISHREE THAKUR, J.

1. The petitioner is seeking the issuance of a writ in the nature of Mandamus to be issued to the respondents to register vehicle described as Ambassador Grand Harit-C-1800 (BSIII), 2009 Model in his name, as the respondents have failed to do so despite various representations having being made in that regard.

2. The petitioner herein purchased a vehicle described as Ambassador Grand Harit-C-1800 (BSIII), 2009 Model (henceforth called '**the vehicle in question**') from a counsellor of the European Union posted at Delhi on 23.07.2019 which, vehicle was delivered to him at Chandigarh on 10.08.2019. The petitioner obtained a 'No Objection Certificate' from the Registering Authorities at Delhi and also completed all the formalities

before purchasing the vehicle in question. The reason for purchasing the vehicle from Delhi was the art work done on the body of the car by a renowned Mexican artist Senkoe. The petitioner thereafter applied to the authority at Chandigarh for registering the vehicle along with all necessary documents. Since, the registration was not sanctioned, the petitioner represented to the authorities but to no avail, necessitating the filing of the instant writ petition.

3. Mr. Puneet Bali, learned Senior Advocate along with Mr. Vaibhav Jain, Advocate, would urge that there is no plausible reason for the respondents to decline the registration of the vehicle, since all documents are in order. It is argued that the NOC as given by the RTO Delhi has also been duly verified. It is urged that without due transfer of the car from Delhi to Chandigarh and registration of the vehicle in the name of the petitioner, the said vehicle cannot be insured nor driven on the road and will lose its utility. It is argued that the only explanation for denial of registration is that the respondents have formed an opinion that the colour of the car has been changed from '*White*' to '*Multicolour*'.

4. Learned Senior Counsel draws attention to the photographs of the vehicle annexed with the petition to emphasise that the colour of the vehicle has not been changed and the background still remains the same. The body of the car has been partly painted over. Attention is also drawn to the photographs (Annexure P 9) of the vehicles being used by the JW Marriot Hotel Delhi, which reflect the face of the famous painter Salvador Dali spray painted on it. These cars are plying in Delhi without any hindrance.

5. Per contra, Mr Pankaj Jain, Senior Standing Counsel for the Chandigarh Administration, would urge that the writ petition is premature as the respondent administration has not declined to register the vehicle as contemplated under Section 45 of the Motor Vehicles Act 1988 ('**the Act of 1988**' for short). It is urged that the vehicle was inspected on 10.8.2019, however the Inspector refused to pass the said vehicle since the colour of the original vehicle had been changed from white to multi-colour. It is argued that as the petitioner had furnished inaccurate particulars of the vehicle, by mentioning the colour of the vehicle as 'white' whereas it stood painted over. It is argued that no vehicle can be altered so as to change the original specification made by the manufacturer, which in the instant case would be the colour of the vehicle.

6. I have heard the learned counsels for the parties and with their assistance have gone through the pleadings and the case law cited.

7. Admittedly, the facts are not in dispute, therefore, there is no need to reiterate them. In this background, the short question that requires consideration would be whether the respondents have erred in not registering the vehicle in question?

8. The first contention that needs to be addressed is, whether the writ is premature as urged by the Senior Standing Counsel for the respondent Chandigarh Administration, as no order of refusal has been passed under Section 45 of the Act of 1988 on the application for registration. The petitioner herein had applied for registration of the vehicle bought from Delhi, and had completed all the necessary formalities including obtaining an NOC from the Registering Authorities in Delhi. The

respondents herein failed to register the car despite several representations dated 10.8.2019, 14.8.2019, 20.8.2019 being made, which necessitated the filing of the petition seeking a writ in the nature of *Mandamus* under Article 226 of the Constitution of India. Once the authorities abdicate from doing their duty, a writ of mandamus would be maintainable. Apart from that, the respondents have taken a categorical stand in the written statement, that registration cannot be allowed as the petitioner has changed the colour of the vehicle from 'White' to 'Multicolour'. With such a stand, it cannot be said the writ petition is not maintainable.

9. It is argued by the learned counsel for the respondents that the certificate of registration gives the specifications/description of the vehicle along with chassis number etc., and the description of the colour is 'White'. Therefore there has been an alteration, which would change the original specifications made by the manufacturer. It now remains to be seen if the respondents are justified in declining to register the vehicle primarily on the ground that the colour has been changed from 'White' to 'Multicolour'.

10. Section 45 of the Motor Vehicle Act 1988 enumerates the conditions when the authorities can refuse to register a vehicle or refuse to renew the certificate of registration. Section 45 is reproduced hereunder:

“45. Refusal of registration or renewal of the certificate of registration.—The registering authority may, by order, refuse to register any motor vehicle, or renew the certificate of registration in respect of a motor vehicle (other than a transport vehicle), if in either case, the registering authority has reason to believe that it is a stolen motor vehicle or the vehicle is mechanically defective or fails to comply with the requirements of this Act or of the rules made thereunder, or if

the applicant fails to furnish particulars of any previous registration of the vehicle or furnishes inaccurate particulars in the application for registration of the vehicle or, as the case may be, for renewal of the certificate or registration thereof and the registering authority shall furnish the applicant whose vehicle is refused registration, or whose application for renewal of the certificate of registration is refused, a copy of such order, together with the reasons for such refusal.”

A reading of the aforesaid section would reflect that the authorities can refuse to register a vehicle or renew the certificate of registration if they have reason to believe that the motor vehicle is stolen or if it has a mechanical defect or fails to comply with the requirements of the said Act of 1988 or the rules made thereunder or if the applicant fails to furnish particulars of any previous registration of the vehicle or *furnishes incorrect particulars in the application form for registration.*

11. Whereas Section 52 of the Act of 1988 pertains to the provision regarding alteration of a Motor Vehicle:

52. Alteration in motor vehicle.—

“(1) No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are at variance with those originally specified by the manufacturer:

Provided that where the owner of a motor vehicle makes modification of the engine, or any part thereof, of a vehicle for facilitating its operation by different type of fuel or source of energy including battery, compressed natural gas, solar power, liquid petroleum gas or any other fuel or source of energy, by fitment of a conversion kit, such modification shall be carried out subject to such conditions as may be prescribed:

Provided further that the Central Government may prescribe specifications, conditions for approval, retrofitment

and other related matters for such conversion kits:

Provided also that the Central Government may grant exemption for alteration of vehicles in a manner other than specified above, for any specific purpose.

(2) Notwithstanding anything contained in sub-section (1), a State Government may, by notification in the Official Gazette, authorise, subject to such conditions as may be specified in the notification, and permit any person owning not less than ten transport vehicles to alter any vehicle owned by him so as to replace the engine thereof with engine of the same make and type, without the approval of registering authority.

(3) Where any alteration has been made in motor vehicle without the approval of registering authority or by reason of replacement of its engine without such approval under sub-section (2), the owner of the vehicle shall, within fourteen days of the making of the alteration, report the alteration to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration to that authority together with the prescribed fee in order that particulars of registration may be entered therein.

(4) A registering authority other than the original registering authority making any such entry shall communicate the details of the entry to the original registering authority.

(5) Subject to the provisions made under sub-sections (1), (2), (3) and (4), no person holding a vehicle under a hire-purchase agreement shall make any alteration to the vehicle except with the written consent of the registered owner.

Explanation.—For the purposes of this section, “alteration” means a change in the structure of a vehicle which results in a change in its basic feature.”

12. The Motor Vehicle Act allows the owner to change or modify the engine as prescribed under section 52(1) of the Act of 1988. This change

has been allowed keeping in view the requirement of reducing pollution and emissions.

13. Learned counsel for the petitioner relies upon a recent judgement as rendered by the Supreme Court in the matter of **Regional Transport Officer and others Versus K. Jayachandra and another (2019) 3 Supreme Court Cases 722**. The Supreme Court was seized of the issue whether alteration in a vehicle which is at variance with the particulars contained in the certificate of registration is permissible. The appeal before the Supreme Court arose out of a judgement rendered by the Kerala High Court where a writ petition was filed by the owner of the vehicle in question on account of denial of registration as the body built over the chassis extended by a length of 15 cm beyond the chassis which was not adhering to the specifications given by the manufacture of the vehicle. The Supreme Court went into the question of alteration as specified under section 52 of the Motor Vehicles Act and held as under;

“ 33. The vehicle has to comply with the provisions of the Rules contained in Chapter V of the Central Rules as provided in Rule 92(1). Rule 92(1) has to be read as subservient to the provisions contained in Section 52 of the Act and what is prohibited therein to allow the same is not the intendment of the Rules contained in the Chapter. Various provisions in Chapter V are additional safeguards to what is prohibited in Section 52(1), that is to say, what has been specified originally by the manufacturers and once that has been entered in the particulars in the certificate of registration, cannot be varied. No vehicle can be altered so as to change original specification made by the manufacturer. Such particulars cannot be altered which have been specified by the manufacturer for the purpose

*of entry in the certificate of registration. It is provided in Rule 126 of the Central Rules, prototype of every type of vehicle is subject to test. The provisions of Rule 126 intend for fitness of vehicle to be plied on the road by the agencies which are specified therein. Approval and certification of motor vehicles for compliance to these rules shall be in accordance with the AIS:017-2000. Rule 93 deals with overall dimensions of the motor vehicles such as width, length, height, overhang, etc. No doubt about it that the vehicle has to be in conformity with the Rules also but Rules cannot be so interpreted so as to permit the alteration as prohibited under Section 52(1) of the Act. **The alteration under the Rules is permissible except as prohibited by Section 52. The specification of the Rules would hold good with respect to the matters as not specifically covered under Section 52(1) and not specified therein by the manufacturer. The emphasis of Section 52(1) is not to vary the “original specifications by the manufacturer”. Remaining particulars in a certificate of registration can be modified and changed and can be noted in the certificate of registration as provided in Sections 52(2), (3) and (5) and the Rules. Under Section 52 (5), in case a person is holding a vehicle on a hire-purchase agreement, he shall not make any alteration except with the written consent of the original owner.’’***

14. Therefore, what can be culled out of the aforesaid judgment is that a motor vehicle cannot be altered to the extent that the alteration would be at variance with the specifications contained in the certificate of registration. Furthermore explanation to Section 52 clearly specifies that “*alteration*” means a change in the structure of a vehicle, which results in a change in its basic feature.

15. In the present case, the respondents could refuse to register the vehicle in question in case any of the conditions as enumerated in Section 45

of the Act had been satisfied. However, the vehicle in question is neither stolen nor is mechanically defective. All particulars of previous registration of the vehicle have also been supplied along with the NOC. The vehicle in question has not been subjected to any alteration as would change its basic structure, nor has there been a change in any of its basic features. The only reason assigned for declining to register, is change in colour of vehicle as per original registration from 'White' to 'Multicolour', while also submitting that the petitioner had filled in a wrong detail while mentioning the colour of the car as white.

16. A perusal of the photographs as appended with the writ petition would reflect that the vehicle, which is an Ambassador car, has been painted upon. There is no change in the base colour of the car which remains white. No doubt the art work done upon it is colourful, but has it changed the *basic structure* of the car or has the vehicle been altered in any manner which is not permitted by virtue of Section 52 of the Act? The answer is in the negative.

17. Any person who drives upon the GT Road will see slogans, quotations, colourful paint job, done on back /front of the trucks that ply on the road from Jammu and Kashmir to Kanyakumari. Some of the standard one's are "**OK TATA**", "**Horn Please**" "**Hum Do Hamare Do**", "**Mera Bharat Mahaan**", "**Use Dipper at Night**" etc. The trucks are beautifully decorated with artwork done on some panel or the other. Apart from that, cars too are plying with stickers plastered all over them of various countries that the owners have travelled to, the most common one being "**I LOVE NEW YORK**". Bumper Stickers are put on cars, stickers which show a

picture of a baby in the car, which reads as “***Baby on Board***” can regularly be seen. Apart from this, advertisements are seen painted upon busses, but such paint job again would not imply that either the basic colour of the vehicle has been changed, or it has been altered in any fashion.

18. The reason for denying registration merely on the ground that there is art work done on the body of the vehicle, where the base remains white, defies logic. Any reasonable person can easily make out that a white car had some art work done upon it. Like a canvas with a spray of flowers. The base colour of the canvas would remain as it is. The Inspector has acted in an arbitrary and wholly whimsical manner, causing undue harassment to the petitioner.

19. Consequently the writ petition is allowed. The respondents are issued a writ in the nature of Mandamus directing them to register the said vehicle within a period of two weeks from today in case all necessary papers are in order. In case any such document is lacking, the petitioner be given reasonable time to furnish the same.

July 14, 2020
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No