

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5446 of 2021

M/s Bolbum Motors through its Proprietor/Manager Dipesh Kumar, aged about 30, Gender Male, S/o Deep Narayan Sah, Resident of Village- Rosana Bazar, P.S.- Pranpur, District- Kaithar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Transport, Govt. of Bihar, Patna
2. The Transport Commissioner, Paribahan Bhawan, Bihar, patna
3. The District Magistrate, Katihar
4. The District Magistrate, Katihar
5. The District Transport Officer, District- Katihar, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Dr. Shashi Shekhar Kishore, Advocate
For the State	:	Mr. Upendra Pratap Singh, AC to Standing Counsel-4
For the respondent/s	:	Mr. A.K. Rastogi, Sr. Advocate Ms. Shilpi Keshari, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 28-09-2021 The present writ petition has been filed to direct the respondent District Transport Officer, Katihar to register 130 T.V.S. (B.S.-IV) two wheeler vehicles, which have been sold from the shop of the petitioner firm.

The learned counsel for the petitioner has submitted that the aforesaid T.V.S. (B.S.-IV) two wheeler vehicles totalling 130 in number, which were sold from the show-room of the petitioner before 31st March, 2020 are not being registered only for the reason that though the petitioner had a valid license but the validity of the same had expired on 19th October, 2019, whereafter the petitioner firm had applied for renewal of the same, however, the license could be renewed only on 19.02.2021. Thus, it is submitted that since the two wheeler



vehicles in question had been sold prior to the cut off date i.e. 31.03.2020, the judgment rendered by the Hon'ble Apex Court, reported in **(2019) 17 SCC 490 (M.C. Mehta vs. Union of India & Ors.)**, shall not apply in the present case. It would be relevant to reproduce paragraph no. 25 of the aforesaid judgment.

“25. Therefore, in exercise of the power vested in this Court under Article 142 of the Constitution, we read down sub-rule (21) of Rule 115 and direct that sub-rule (21) of Rule 115 shall be interpreted and understood to read that no motor vehicle conforming to the emission standard Bharat Stage-IV shall be sold or registered in the entire country with effect from 1-4-2020.”

Per contra, the learned senior counsel for the respondent Shri A.K. Rastogi assisted by Ms. Shilpi Keshari, Advocate submits that the direction of the Hon'ble Apex Court is very clear inasmuch as in exercise of the power vested under Article 142 of the Constitution of India, the Hon'ble Supreme Court of India has directed that no motor vehicle conforming to the emission standard Bharat Stage-IV shall be sold or registered in the entire country with effect from 01.04.2020, hence in the present case, though the vehicles in question which conform to BS-IV norms, were sold prior to 01.04.2020 but during the said period, the petitioner firm did not have a valid license for the purposes of selling two wheeler vehicles and the trade certificate/license was granted to the petitioner only on



19.06.2020, therefore, the resultant effect was that the two wheeler vehicles in question could not be registered prior to the cut off date i.e. 01.04.2020, since the petitioner firm could get a valid license for the purposes of selling of two wheeler vehicles, only after expiry of the cut off date i.e. 01.04.2020.

The learned senior counsel for the respondents has fairly submitted that though the present case is a hard case but in view of the aforesaid directions of the Hon'ble Apex Court the hands of the State are tied.

At this juncture, the learned counsel for the petitioner, sensing difficulty in overcoming the mandate of the aforesaid judgment rendered by the Hon'ble Apex Court in the case of M.C. Mehta (supra), seeks to withdraw the present writ petition in order to enable the petitioner to approach the Hon'ble Apex Court by filing appropriate writ petition under Article 32 of the Constitution of India.

Having regard to the submissions made by the learned counsel for the petitioner, the present writ petition stands disposed off as not pressed.

(Mohit Kumar Shah, J)

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