

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4654 of 2021

Khagaria Auto Agency, having its office at M.G. Road, Khagaria-851204, Bihar, through its authorised representative Shri Vinay Kumar, aged about 50 years, S/o Bhola Prasad Yadav, R/o Vill and P.O.-Raghunathpur, Ward No. 12, P.S. Sahebpurkamal, District-Begusarai-851217, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Transport Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Transport Department, Govt. of Bihar, Patna.
3. The State Transport Commissioner, Transport Department, Govt. of Bihar, Patna.
4. The District Transport Officer, Khagaria, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Y.V.Giri, Sr. Advocate Mr.Nikhil Kumar Agrawal, Advocate Mr. Vaibhav Niti, Advocate Ms. Aditi Hansaria, Advocate
For the Respondent/s	:	Mr. Anil Kr. Singh, GP-26 Mr. Sarvesh Kumar, GP-24

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-10-2021

Petitioner has prayed for the following relief(s):-

- i) To issue an appropriate writ/order/direction in the nature of *Mandamus* directing the Respondents to issue appropriate orders to the respective DTO's to register the vehicles enumerated in the chart annexed as **Annexure-12** upon verification of the authenticity of the sale / purchase transaction in accordance with law;



- ii) To issue an appropriate writ/order/direction in the nature of *Mandamus* commanding the Respondents to give effect to the various orders passed by the Hon'ble Supreme Court whereby and whereby the Hon'ble Court has granted permission for registration of BS-IV vehicles purchased on or before 31.03.2020;
- iii) To issue an appropriate writ/order/direction in the nature of *Mandamus* commanding the Respondents to accept registration of even those vehicles which were sold on or before 31.03.2020 but payment of which could not be uploaded by the Petitioner on the portal as the e-Vahan portal was inoperative/inactive on 29.03.2020, 30.03.2020 and 31.03.2020;
- iv) To any other relief or reliefs for which the Petitioner is found entitled to in the facts and circumstances of the case.

We are dealing with a case where the petitioner, a dealer, has self purchased in bulk 243 vehicles. The transaction of bulk purchase is alleged to have been effected prior to 31st March 2020. Petitioner contends that all formalities stood completed, save and except, that the registration could not be uploaded on the e-Vahan portal for the reason that the portal was non-functional. It is contended that all statutory dues were paid. Also insurance



cover was purchased.

Be that as it may, in view of the order dated 13th of August, 2020 passed by Hon'ble the Supreme Court in Writ Petition(s) (Civil) No(s). 13029/1985, titled as M.C.Mehta Vs. Union of India & Ors., we cannot allow the petition directing the respondents to open the portal for the purpose of uploading the transactions effected prior to 31st of March 2020. Relevant portion whereof is extracted hereunder:

“IN RE: REGISTRATION OF BS IV VEHICLES

Heard learned counsel for the parties at length.

Considered the rival arguments. The lockdown was imposed from 25.03.2020. The sales data has been furnished for the lockdown period by FADA and Non-FADA Members for the period with effect from 15.03.2020. There are unusually a large number of transactions, which had taken place during the lockdown period inter se dealers, which cannot be recognised for the purpose of actual sales and registration. We disallow the registration on the basis of such kind of transactions inter se dealers. As they are not sales to the customers and registration of these kinds of vehicles cannot be allowed, there is a ploy to misuse of the order and such vehicles cannot be permitted to be sold in market now. They are not genuine transactions of the sale to the customers. Hence, no registration of such kind of vehicles shall



be made, which were sold inter se dealers during the lockdown period.

Apart from that, there are large number of vehicles, sales of which were not uploaded on E-Vaahan Portal. Since, sales were not uploaded, as required, the transactions cannot be recognised as genuine sales. The order passed by this Court on 24.10.2018 is clear that sale and registration of BS-IV vehicles shall not be allowed after 31.03.2020. We cannot allow the registration of such vehicles, sales of which were not uploaded on E-Vaahan Portal of the Central Government or the portal of the concerned State Government.

There are still stated to be a large number of sales which have been made and uploaded on the E-Vaahan Portal, even temporary registrations were made. Their registration during the lockdown period could not be made. Hence, we allow registration of such vehicles only which could not be registered during lockdown in the month of March, 2020 and for no other reason. However, the position of Delhi and NCR is different. We clarify our order dated 27.03.2020 to the effect that no registration of BS-IV vehicles is to be made in Delhi and NCR as people are suffering from severe air pollution and the order passed by this Court in 2018 was clear. No vehicle of BS-IV in Delhi and NCR to be registered.

We order that in the Delhi and NCR, no registration of the vehicles of BS-IV is to be made after 31.03.2020.

This order is for the rest of the country and only due to lockdown, not to be used for any other



purpose/reason and for registration of other vehicles of which registration was not done for any other reason.

I.A. NOS. 56015, 56017 AND 56018/2020

(APPLNS. FOR IMPLEADMENT, DIRECTIONS AND EXEMPTION FROM FILING ATTESTED AFFIDAVIT ON B/O NORTH EAST PLANTATION AND COMMERCIAL PVT. LTD.)

The application for impleadment is allowed to the extent of intervention. In the peculiar facts and circumstances of the case, registration of vehicles in question in these applications be made. However, it shall not be treated as a precedent for any other case. Application for directions is, accordingly, allowed.

Pending interlocutory application(s), if any, is/are disposed of.”

(Emphasis supplied)

Shri Y.V.Giri, learned senior counsel for the petitioner, invites our attention to subsequent orders passed by Hon’ble the Apex Court with respect to other dealers.

We have perused the said order dated 02.11.2020 passed in Writ Petition(s) (Civil) No(s). 13029/1985, titled as M.C.Mehta Vs. Union of India & Ors. (Page 116-123 of the writ petition) and do not find ourselves to be persuaded to agree with the submissions of Shri Giri that the earlier order dated 13th of August, 2020



stood modified.

As such the present petition stands dismissed.

Interlocutory application, if any, stands dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ranjan

AFR/NAFR	
CAV DATE	
Uploading Date	08.10.2021
Transmission Date	

