Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4498 OF 2021

Shri Subhash Shamrao Katte …. Petitioner
Vs.
The State of Maharashtra and ors. ….. Respondents

Mr.Nagesh Chavan i/b Mr.Rahul B. Khot, for the Petitioner.
Mr.A.P. Vanarase, AGP for the Respondent – State.
Mr.Laxman Darade, Deputy Transport Commissioner (Enforce Mumbai -1) is present.

CORAM : M. S.KARNIK, J.

DATE : 27th AUGUST, 2021

P.C. :

1. Heard learned Counsel for the Petitioner. Learned Counsel for the Petitioner submitted that the issue that arises in this Petition is squarely covered by the order passed by this Court in Writ Petition No. 4026 of 2021 vide order dated 11/08/2021.

2. The Petitioner is not a dealer. The Petitioner is an agriculturist. The vehicle - a Unicorn Motorcycle was purchased by him on 01/02/2020. The temporary registration was effective for the period from 01/02/2020 to 29/02/2020. The vehicle was inspected on 14/02/2020. The sale has been uploaded on E-

Vahan portal on 14/02/2020. The Petitioner stated that due to some personal reasons and agricultural work and thereafter in view of the imposition of lockdown, the registration could not be applied for and the taxes remained to be paid.

3. Learned AGP had sought time on the earlier occasion to take instructions. He has produced on record a copy of the communication dated 26/08/2021 addressed by the Transport Commissioner's office. Learned AGP submits that the Petitioner is not entitled to any relief in view of the specific directions of the Hon'ble Supreme Court dated 13/08/2020 passed in Writ Petition (Civil) No. 13029 of 1985. Learned AGP further submitted that though the vehicle was purchased prior to the lockdown and even inspected, still then, the registration was not made in the month of March 2020. Admittedly, according to him, the Petitioner has applied for registration on 03/12/2020 and therefore, the Authorities are justified in refusing the registration in terms of order passed by the Hon'ble Supreme Court. Learned AGP on instructions of the Deputy Transport Commissioner - Shri Laxman Darade who is present in Court submits that the impugned order is passed in consonance with the directions of the Hon'ble Supreme Court and has opposed the Petition. It is the contention of the Respondents that the Petitioner ought to

have registered his vehicle during the period 14/02/2020 and 23/03/2020 as there was no lockdown then, but later on cannot be permitted to do so in view of the directions of the Apex Court. During this period, the Petitioner failed to apply for registration and no taxes were paid and hence, according to them, the impugned order which is passed is in consonance with the directions of the Hon'ble Supreme Court. The Petitioner had approached Respondent No.3's office only on 03/12/2020 along with all documents for registration.

4. Heard. Having purchased the vehicle on 01/02/2020 and after the uploading on E-Vahan portal on 14/02/2020, the Petitioner has failed to apply for registration in time. He had sufficient time between the date of uploading of the sale on E-Vahan portal on 14/02/2020 & 23/03/2020 when lockdown was imposed to get his vehicle registered. The Hon'ble Supreme Court has allowed the registration of such vehicles only which could not be registered during lockdown in the month of March 2020 and for no other reason.

5. No doubt, there has been a failure on the part of the Petitioner in immediately applying for registration after the sale

was uploaded on E-Vahan portal on 14/02/2020. This is an individual purchase. The Petitioner is not a dealer. The consequence of delayed registration is payment of fine. The lockdown was imposed with effect from 23/03/2020. In this view of the matter, the Petitioner could very well have applied for registration prior to lockdown as E-Vahan portal entry was made on 14/02/2020 and even the vehicle was inspected on 14/02/2020. The vehicle was purchased by him on 01/02/2020. It was open for the Petitioner to apply for registration during this period, and had he done so, the vehicle could have been registered.

6. As indicated earlier, the Petitioner could have very well applied for registration prior to the lockdown, but he failed to do so. It is in these circumstances, I am of the opinion that the failure on the part of the Petitioner to apply for registration prior to the imposition of the lockdown would entail the consequence of penalty and fine as provided, but he cannot be deprived of the benefit of registration and payment of taxes. It is, hence, my humble opinion that the directions of the Hon'ble Supreme Court will not apply in the present facts. The Hon'ble Supreme Court has allowed registration of such vehicles only which could not be registered during lockdown in the month of March 2020 and for

no other reason. It is not as if the turn of registration of the Petitioner's vehicle came up during lockdown in the month of March 2020. There is simply a failure on his part to apply for registration during the period much prior to the lockdown, for had he applied in time, the vehicle could be registered. The Petition is therefore allowed in terms of prayer clauses (b) & (c).

7. Needless to mention that is is open for the Authorities to proceed with the registration and acceptance of the payment of taxes after imposing penalty/fine in accordance with the Rules and Regulations.

(M.S.KARNIK, J.)