

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7136 OF 2021**

Niket Lalit Chajjed

...Petitioner

V/s.

The State of Maharashtra & Anr.

...Respondents

Mr. Veerdhaval Kakade for Petitioner.

Mr. P. P. Kakade, GP with Mr. S. S. Panchpor, AGP for State.

Mr. S. N. Sasane, Dy. RTO, Pune present.

Ms. S. M. Wadekar, Motor Vehicle Prosecutor present.

CORAM : G. S. KULKARNI, J.

DATE : DECEMBER 13, 2021

P.C. :

1. Heard learned counsel for the petitioner and the learned GP for the State.

2. This writ petition is filed challenging the order dated 30 July, 2021 passed by the Appellate Officer and Dy. Transport Officer (Enf-1), Maharashtra whereby the registration of the petitioner's vehicle Maruti Suzuki Vitara Brezza has been refused. The facts are not in dispute. The petitioner purchased the vehicle on 29 March, 2019 which is a vehicle categorized as Bharat Stage IV motor vehicle.

3. On 1 April, 2019 the registering authority had issued a temporary registration certificate. Thereafter on 9 April, 2019 the petitioner filed Form 20 with a registering authority, RTO, Pune who also issued a disclaimer

certificate.

4. On 12 April, 2019 inspection of the vehicle was undertaken and an inspection certificate was issued to the petitioner pursuant to which on 20 April, 2019 the petitioner intended to make payment towards tax and registration charges and as there was technical error in receiving the payment, in May 2019, the petitioner again attempted to make payment towards tax and the registration charges, but again on a technical error, the transaction was reversed. However, in the meantime, with effect from 24 March 2020, a nationwide lockdown was announced due to Covid-19 Pandemic.

5. In the said circumstances, the petitioner on 28 September, 2020 applied for permanent registration to the RTO at Pune who by an order dated 26 October, 2020 rejected the application on the ground that the petitioner's application was made beyond 31 March, 2020 and by observing that in view of the orders passed by the Supreme Court, the registration of the petitioner's vehicle cannot be granted.

6. Being aggrieved by the said order, the petitioner approached the appellate authority who by the impugned order dated 30 July, 2021 has rejected the petitioner's appeal, primarily on the ground on which the

registration was rejected by the original authority and observing that what was granted to the petitioner was only a temporary registration and after granting such registration, the petitioner did not comply with the direction of making payment of the tax and registration charges, hence considering the orders of the Supreme Court, the registration cannot be granted. The petitioner has approached this Court assailing the orders passed by the appellate authority inter-alia contending that the impugned order suffers from non-application of mind, as the order dated 13 August, 2020 as passed by the Supreme Court did not come in the way of the petitioner in which the Supreme Court has made the following observations:-

“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.”

7. Learned counsel for the petitioner has brought to the notice of the Court a recent order passed by the Supreme Court on 30 November, 2021 in Writ Petition(s) (Civil) No(s). 13029/1985 (**M. C. Mehta Versus Union of India & Ors.**) to submit that the petitioner’s vehicle is clearly covered by such order in as much as the Supreme Court has permitted the registration of such vehicles which is registered/uploaded on e-Vahan portal prior to 31 March, 2020. The observations of the Supreme Court are required to be noted which read thus:-

“ Sales of the vehicles which have been uploaded on e-Vahan portal before 31.03.2020 can be registered by the concerned transport authorities provided that the temporary/ permanent registration was granted before the cut off date, i.e. 31.03.2020. The concerned transport authorities are directed to carefully scrutinize the records to ensure that the sales are genuine and have taken place prior to 31.03.2020.”

8. The learned Assistant Government Pleader on instructions does not dispute that the vehicle of the petitioner is covered by the above orders of the Supreme Court in as much as the petitioner’s vehicle was registered on e-Vahan portal on 9 April, 2019 a copy of which is placed on record.

9. In the above circumstances, the petition is required to be allowed. It is accordingly allowed by the following order:-

ORDER

- i. The impugned order dated 30 July, 2021 passed by the Appellate Officer and Dy. Transport Officer (Enf-1), Maharashtra, confirming the order dated 26 October, 2020 passed by the Regional Transport Officer, Pune is quashed and set aside.
- ii. The said authority is directed to grant registration to the petitioner's vehicle within a period of two weeks from today.
- iii. The petitioner shall pay all necessary charges/penalty, etc.
- iv. Writ petition stands disposed of in the above terms. No costs.

(G. S. KULKARNI, J.)