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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED DATE : 01.03.2021

PRONOUNCED DATE : 24.09.2021

CORAM

THE HONOURABLE THIRU JUSTICE B.PUGALENDHI

W.P.No.4139 of 2021

&

W.M.P.Nos.4722 & 4724 of 2021

M/s.Yarya Sekur Pvt.Ltd.,
Rep by its Director Mrs.K.Senthamarai.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by the Secretary, Transport Department,
Fort St.George, Chennai - 600 009.

2.The Additional Chief Secretary/Transport
Commissioner, Transport Department,
Ezhilagam, Chepauk, Chennai - 600 005.

...Respondents

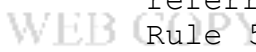
Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the 2nd respondent in 'INVITATION FOR BIDS (IFB)' dated 13.01.2021 for High Security Number Plates and quash the same.

For Petitioner : Mr.T.Gowthaman

For Respondents : Mr.Vijay Narayan,
Advocate General
Mr.Kumaresh Babu,
Additional Advocate General
Assisted by
Mr.P.S.Siva Shanmuga Sundaram
Special Government Pleader

ORDER

The petitioner/Company, a licensee for manufacturing High Security Registration Plate by the Central Road Research Institute, New Delhi, filed this Writ Petition as against the tender notification called for by the second respondent on 13.01.2021 for implementing the High Security Registration



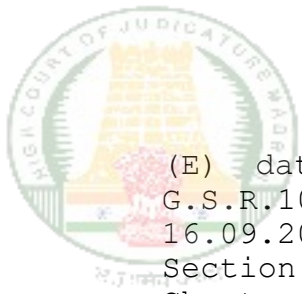
2. The High Security Registration Plates (hereinafter referred as HSRP) was introduced in the year 2001, by amending Rule 50 of the Central Motor Vehicles Rules, 1989, by imposing certain conditions on displaying the number plates at the front and at the rear of all motor vehicles. The object of HSRP is to ensure safety and to curb out crimes committed through vehicles, such as kidnapping, dacoity, terrorist activity and murder.

4. Learned Counsel further submits that vide G.S.R.221(E) 2001, Rule 4(x), the manufacturer or the vendor selected by the State Transport Department for supply of such registration of HSRP plates was permitted for the State as a whole or for any region of the State. The Rule that gave exclusive discretionary powers for HSRP vendors was first amended by S.O.6052, as follows:

This was further amended by G.S.R.104 and the relevant clauses reads as follow:

The license plates with all the above specifications and the specified registrations for a





(E) dated 06.12.2018, Clause No.5(ii) - (HSRP Order 2018), G.S.R.104(E) - dated 11.02.2020, Clause 2(d), Circular dated 16.09.2020 issued by Ministry of Road Transport and Highways, Section 41(6), Section 47, Section 48, Section 64, Section 65, Chapter IV of the Motor Vehicles Act, 1988 and the directions of the Hon'ble Supreme Court of India vide its judgment dated 30.11.2004 passed in W.P.(C).No.41 of 2003, judgment passed in W.P.(C).No.510 of 2005, C.P.(C).No.483 of 2013 and W.P.(C).No.13029 of 1985 titled M.C.Mehta Vs. UOI.

9. According to the learned Advocate General, the selection of HSRP vendor for the purpose of conversion of old vehicles into HSRP line with the State Government, as directed by the Central Government and the State has been bestowed with the responsibility by the Central Government to authorize any vendor for the purpose of implementation of the scheme and it has been confirmed by the Hon'ble Apex Court in several judgments. He has relied on the following judgments in support of his contentions:

- (i) (2005) 1 SCC 679 [W.P.(C).41 of 2003 dated 30.11.2004].
- (ii) (2011) 11 SCC 315 [I.A.Nos.10 & 11 of 2010 in W.P.(C).No.510 of 2005 dated 08.05.2008].
- (iii) (2011) 11 SCC 273 [W.P.(C).No.510 of 2005 dated 07.04.2011].
- (iv) (2011) 14 SCC 273 [W.P.(C).No.510 of 2012 dated 30.08.2011].
- (v) (2012) 1 SCC 273 [W.P.(C).No.510 of 2005 dated 13.10.2011].
- (vi) (2012) 1 SCC 707 [W.P.(C).No.510 of 2005 dated 08.12.2011].
- (vii) (2012) 4 SCC 568 [W.P.(C).No.510 of 2005 dated 07.02.2012].
- (viii) C.P.(C).No.483 of 2013 dated 13.07.2016, of the Hon'ble Supreme Court.
- (ix) W.P.(C).No.13029 of 1985 dated 10.12.2018, of the Hon'ble Supreme Court.

10. In the case of Association of Registration Plates Vs. Union of India & others reported in 2005(1) SCC 679, the Hon'ble Apex Court has held as follows:

"40. Selecting one manufacturer through a process of open competition is not creation of any monopoly, as contended, in violation of Article 19(1)(g) of the Constitution read with clause (6) of the said Article. As is sought to be pointed out, the implementation involves large network of operations of highly sophisticated materials. The manufacturer has to have embossing stations within the premises of the RTO. He has to maintain a data of each plate which he would be getting from his main unit. It has to be cross-checked by the RTO data. There has to be a server in the RTO's



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office which is linked with all RTOs' in each State and thereon linked to the whole nation. Maintenance of record by one and supervision over its activity would be simpler for the State if there is one manufacturer instead of multi-manufacturers as suppliers. The actual operation of the scheme through the RTOs in their premises would get complicated and confused if multi-manufacturers are involved. That would also seriously impair the high security concept in affixation of new plates on the vehicles. If there is a single manufacturer he can be forced to go and serve rural areas with thin vehicular population and less volume of business. Multi-manufacturers might concentrate only on urban areas with higher vehicular population.

45. On behalf of the petitioners, paragraph 2 of rule 50(1)(v), which is reproduced below, has been interpreted. The contention is that it does not contemplate selection of sole manufacturer for a State or a Region. The relevant paragraph 2 of rule 50(1)(v) reads thus :-

"Rule 50(1)(v). Form and manner of display of registration marks on the motor vehicles.

(1).....

(i) to (iv)

(v)

The licence plates with all the above specifications and the specified registrations for a vehicle shall be issued by the registering authority or approved licence plates manufacturers or their dealers.

The Central Road Research Institute, New Delhi or any of the agency authorized by the Central Government shall approve the license plates manufacturers to above specification.
[Emphasis supplied]

46. Learned counsel for the petitioners argues that the use of the word "approved" in para 2 of clause (v) of rule 50(1) has to be given its natural meaning and cannot be read to mean "selected" through notice inviting tender. In this respect, it is further submitted that the rule making authority has used the word 'approved' and 'approve' twice in the same paragraph. The rule read harmoniously rules out selection of sole manufacturer through a tender process. The argument in substance is that every approved licence plate manufacturer can be entrusted



with the job of supplying the registration plates and selection of one manufacturer for the job is against the intendment of the rule.

47. The above argument seems attractive but on closer scrutiny is unacceptable. The rule is interpreted to mean that the registration plates can either be issued by RTO to the exclusion of all others or all type approval certificate holders must be allowed to do business of supply in open market. In other words, according to the petitioners, the rule contemplates that if the registering authority does not supply the plates itself, it allows all TAC holders to do the business without any restriction.

48. In interpreting the rule, the object of the scheme providing for affixation of high security plates has to be kept in view. Where the RTO himself is not making the supply of plates, an approved registration plate manufacturer can be selected for supply. The legal obligation on the registering authority under rule 50(1)(v) to issue specified kinds of registration plates implies issuance of such registration plates through a selected approved plate manufacturer. Paragraph 2 of clause (v) of rule 50(1), if reasonably construed, does not indicate any prohibition of selection of an approved plate manufacturer for assisting the registering authority to implement the scheme of affixation high security registration plates to existing vehicles and new vehicles. Such an interpretation fulfils the object of the scheme. The interpretation sought to be placed by the petitioners on the said para of the rule would result in frustrating the high security aspect and object of the scheme of affixation of high security registration plates on vehicles."

11. This Court paid its anxious consideration to the rival submissions made and also perused the materials available on record.

12. The Government of India introduced High Security Registration Plates scheme throughout the Country in order to ensure public safety and security in order to prevent crimes committed through vehicles by amending the Central Motor Vehicle Act, 1988 and Central Motor Vehicle Rules, 1989. Pursuant to the same, several States issued notices inviting tenders for implementing this HSRP scheme and the said notifications were challenged before various High Courts and finally the Hon'ble Apex Court in the case of Association of Registration Plates (cited supra) held that the State, as the implementing agency



has to ensure that the scheme of the high security plates is effectively implemented. Keeping in view the enormous work involved in switching over to new plates within two years for existing vehicles of such large numbers in each State, resort to a "trial-and-error" method would prove hazardous and the concern of the State to get the right and most competent person cannot be questioned. It has to eliminate the manufacturers who have developed recently, just to enter into the new field. The insistence of the State to search for an experienced manufacturer with sound financial and technical capacity cannot be misunderstood.

13. Thereafter, in order to confirm certain standards, the Ministry of Road Transport and Highways issued a Notification in S.O.6052(E) on 06.12.2018, in suppression of the Motor Vehicles (New High Security Registration Plates) Order, 2001, with certain conditions such as:

"4.A vehicle manufacturer shall comply with the following procedure in regard to High Security Registration Plates (HSRP) for a new vehicle to be sold on or after 1st April, 2019 namely:-

(a)The type approved High Security Registration Plates including the third registration mark, shall be supplied by the vehicle manufacturers to their dealers, who shall place a mark of registration on such plates and affix them on the automobiles.

(b)A manufacturer of the motor vehicles shall ensure that the requisite infrastructure required for placing the mark of registration on the security license plates and printing the third registration plate are available with their dealers.

(c)The cost of high security registration plate and its affixture on the vehicle after placing the mark of registration shall be included in the price of the new vehicle and no additional or itemised cost shall be charged from the vehicle purchaser by the dealer for the same.

5.(i)For the affixation of HSRP on existing vehicles, the high security registration plate including the third registration mark may be supplied and affixed by the dealers of the vehicle manufacturers after placing the mark of registration thereon.

(ii)The manufacturers or suppliers of high security registration plates, if so authorised by the State concerned may also supply the high security registration plate including the third registration mark on old vehicles after placing the registration mark."



14. As per this new Motor Vehicles High Security Registration order 2018, the State Governments can authorize the manufacturers or suppliers of high security registration plates for the supply of high security registration plates on old vehicles as per Clause 5(ii) of the said order.

15. The Notification in G.S.R.104(E) was issued on 11.04.2020 and certain amendments have been done to the Central Motor Vehicle Rules 1989 by amending the Rule 50, which reads as follows;

"2.In the Central Motor Vehicles Rules, 1989 (herein after referred as the said rules); in Rule 50, Sub-Rule 1:-

(a)In Clause (i), for the words and figures "DIN 1745/DIN 1783 or ISO 7591" the following words, figures and brackets "AIS:159:2019 as amended from time to time (till such time BIS specification is notified under the Bureau of Indian Standard Act, 2016 (11 of 2016) or ISO:7591" shall be substituted; notified under the Bureau of Indian Standard Act, 2016 (11 of 2016) or ISO: 7591" shall be substituted;

(b)in clause (iii) for the word "seven" the word "ten" shall be substituted;

(c)in clause (iv):-

(i)for the words "registering authorities/approved dealers of the license plates manufacturers", the following words "registering authority/vehicle manufacturer and their dealers" shall be substituted;

(ii)for the words "license plate manufactured or his dealers" the following words "registering authority/vehicles manufacturer and their dealers: shall be substituted;

(d)for clause (v), the following clause shall be substituted, namely:-

"(v)the plate shall be fastened with non-removable/ non-reusable snap lock fitting system on rear of the vehicle;

The license plates with all the above specifications and the specified registrations for a new vehicle shall be issued by the registering authority or vehicle manufacturers and their dealers and for existing old registered vehicle shall be issued by registering authority or vehicle manufacturers and their dealers or by the approved license plate manufacturers or their dealers. The Central Road Research Institute, New Delhi or any agency authorized under Rule 126 shall approve the security registration as per the provisions of this Rule"



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16. The Government of India, Ministry of Road Transport and Highways issued an Advisory to all the States Union Territories on the High Security Registration Plates on 16.09.2020. The paragraphs 3 & 4 of the State Advisory are extracted as under:

"3. The Ministry's notifications G.S.R.1162(E) dated 04.12.2018 and S.O.6052 (E) dated 06.12.2018 provides that the High Security Registration Plate including the vehicle manufacturers along with the vehicle manufactured on or after 1st day of April, 2019 to their dealers and dealers shall place a mark of registration on such plates and affix them on the vehicle.

4. For the affixation of HSRP on existing vehicles, the High Security Registration Plate including the third registration mark may be supplied and affixed either by the dealers of the vehicle manufactured after placing the mark of registration thereon or by the manufacturers or suppliers of HSRP, if so authorized by the State concerned."

17. The learned Advocate General has also relied on certain other informations provided by the Government of India as a clarifications in their website on the High Security Registration Plates that on the question, it is mentioned as follows:

"Who can be selected by State to sell/affix HSRP?
Any prospective vendor can obtain type approval certificate from any of the authorized testing agencies and thereafter can participate in the selection procedure by the State Governments. It is for the State Government to select a vendor or vendors."

18. In the Motor Vehicles High Security Registration Plates order 2018, the State Governments were also authorized to supply the High Security Registration Plates on old vehicles. However, in the amendments issued vide G.S.R.104(E), there is no specific reference to the State Government. However, in the Advisory issued by the Government of India, Ministry of Road Transport and Highways, it is clarified that the fixation of high security registration plate on existing vehicles may be supplied and affixed either by the dealers or by the manufacturers or suppliers authorized by the State concern. On a similar Tender Notification which was challenged earlier in the year 2005, the Hon'ble Apex Court in the aforementioned judgment has stated that no person can claim a Fundamental Right to carry on business with the Government and the State, as the implementing authority has to ensure the scheme is effectively implemented.



19. In view of the ratio laid down by the Hon'ble Apex Court and the Advisory issued by the Union Government, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

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s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary State of Tamil Nadu,
Transport Department,
Fort St. George, Chennai - 600 009.

2. The Additional Chief Secretary/Transport
Commissioner, Transport Department,
Ezhilagam, Chepauk, Chennai - 600 005.

+1 CC to Mr. T. Gowthaman, Advocate sr 49732.

+1 CC to The Government Pleader sr 49804.

W.P.No.4139 of 2021

SS(CO)
SP(09/11/2021)