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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2021

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No. 12409 of 2021

and

W.M.P. No. 19018 of 2021

Sakthi Vinayaka Engineering Works,
Represented by its Proprietor,
P.Loganathan, M/53,
S/o.Palanisamy Gounder,
No.1-A, Erode Road,
Vengamedu, Perundurai - 638 052,
Erode District.

...Petitioner

-Vs-

1.The Principal Secretary / Transport Commissioner,
Transport Department, Ezhilagam,
Chepauk, Chennai - 600 005.

2.The Regional Transport Officer,
Perundurai, Erode District.

3.The Senior Deputy Director and Head
Homologation, Management, Regulation
and Vehicle Evaluation,
P.M.Transport Bhawan North,
New Delhi.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the
Constitution of India, praying for issuance of Writ of
Mandamus directing the first and second respondents to
register the trailers without insisting the petitioner to
produce Homologation Portal approval.

For Petitioner : Mr.C.Prakasam

For Respondents : Mrs.Akila Rajendran
Government Advocate for R1&R2
Mr.Rajesh Vivekanthan for R3

O R D E R

The prayer sought for herein is for Writ of Mandamus
directing the first and second respondents to register the
trailers without insisting the petitioner to produce
homologation Portal approval.



2. The petitioner is running a manufacturing unit for manufacturing of trailers drawn by the agricultural tractors. Previously, the Regional Transport Authorities after registering the tractors, register the trailers by making endorsement in the R.C. Book, after verification of the parking brake system, whether fitted in the trailer or not.

3. However, the Government of India brought an amendment in Rule, i.e., Central Motor Vehicles Rules in the year 2015, that the details of every vehicle shall be put into web portal after 2015. Even though, the said Rule has been kept in abeyance, on the representation made by the tractor manufacturers before the Government of India for certain period, since they required to change over the mechanism in the Tractor Hydraulics Braking System and to be extended for the trailers, the said Amendment Rules came into force after 01.02.2016.

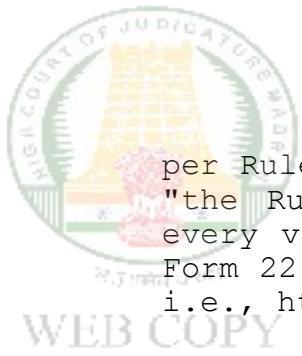
4. The Government of India also brought amendment in the Rules, i.e., The Central Motor Vehicles Rules by issuing notification, dated 15.06.2015.

5. In view of the aforesaid amendments made in the Rules, the agriculturalists who purchased the tractor trailer approached the Regional Transport Officer concerned to get registration along with the tractor, however they would insist upon that, as per the amended rule, the trailer also should get a Homologation Portal approval, without which, the trailer concerned along with the tractor cannot be registered or endorsement would not be made in the R.C.Book along with the registration certificate of the tractor concerned.

6. When such a situation was faced by the petitioner, the petitioner already approached this Court by filing a Writ Petition in W.P. No. 1536 of 2021, where, the stand taken by the respondent Transport Department was that, insofar as the plea of the petitioner to register the trailer of the tractor concerned, there can be no impediment for the Regional Transport Officer concerned to register the same, provided they must apply online for "R2" type trailer through Homologation Portal approval and based on that, the respondent will register the trailer.

7. Recording the same, a learned Judge of this Court, by order dated 10.03.2021 disposed the said Writ Petition in W.P. No. 1536 of 2021 by passing the following order:

"2. When the matter has been taken up for hearing, Mr. Annai Ezhil, learned Government Advocate appearing for the respondents would submit that there is no impediment for the respondents in registering the Trailers and any person who is seeking for registration of trailer must apply online for "R2" type Trailer



per Rule 47 of the Central Motor Vehicles Rules, 1989 in short "the Rules", it had become mandatory that, from 01.01.2015, every vehicle manufacturer shall, in accordance with Form 20, Form 22 and Form 22A upload the vehicle details in the Portal, i.e., <http://www.vahan.nic.in/maker model>.

14. In view of the said mandate as has been contemplated under the Rules, it become necessitated for the State Transport Authorities to insist upon or seek upon those, who want to register any vehicle including the trailer of the tractor to get an approval of Homologation Portal, without which, such registration cannot be made. Therefore, when this was specifically made by the Transport Authorities even in the earlier round of litigation filed by the petitioner, having accepted the same, this Court has disposed the said Writ Petition and having accepted the said decision, though the petitioner has made an application to the third respondent to get a Homologation Portal approval, merely because which is delayed by the third respondent to give such approval, it cannot be stated by the petitioner that, without such approval, registration has to be made by the Transport Authorities. Therefore, the learned Government Advocate submits that, the prayer sought for in this Writ Petition cannot be accepted and hence, the Writ Petition is liable to be rejected, she contended.

15. I have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

16. Insofar as the contention raised by the petitioner side that, the requirement of Homologation Portal approval is concerned, it is not a mandatory one, this Court wants to verify, whether the said Rule namely 47(3) of the Rules can be put against the petitioner or the petitioner like people when they moved for registration of tractor trailer without getting an approval of Homologation Portal approval. In this context, Sub-rule 3 of Rule 47, reads thus:

"(3) On and from the 1st January, 2015, every vehicle manufacturer shall, in accordance with Form 20, Form 22 and Form 22-A, upload the vehicle details in the portal <http://www.vahan.nic.in/maker model>."

17. It is mentioned in the said Sub-rule that, every vehicle manufacturer shall upload the vehicle details in the Portal.

18. In this context, if we look at the explanation given for the word Motor Vehicle or Vehicle at the Motor Vehicles Act, 1988, Section 2 of Sub section 28 reads thus:

"Section 2 (28): "Motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the



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power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding (twenty five cubic centimetres);"

19. Sub-section 46 of Section 2 of the Motor Vehicles Act, 1988 reads thus:

"Section 2 (46): "Trailer" means any vehicle, other than a semi-trailer and a side-car, drawn or intended to be drawn by a motor vehicle;"

20. Therefore, the motor vehicle or vehicle is having a separate meaning whereas, the trailer would have a different meaning. The word 'trailer' has been explained in the Act that it means, any vehicle, other than a semi-trailer and a side car, drawn or intended to be drawn by a motor vehicle. Whereas, the word 'motor vehicle' or 'vehicle' means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source.

21. Herein the case in hand, the tractor which is having the power of propulsion for its movement in the road necessarily has to be registered and therefore, the details of the tractor would have been uploaded in the Portal. But in the case of trailer, it is part of the motor vehicle or vehicle, if we further read the explanation in Sub-section 28 of Section 2, because the word "includes a chassis to which a body has not been attached and a trailer" means the motor vehicle or the vehicle attached with the trailer also to be called as motor vehicle or vehicle, therefore the trailer alone cannot be construed as the word motor vehicle or vehicle.

22. If it is a motor vehicle or vehicle, here it is tractor, registered with the trailer concerned attached with the motor vehicle or vehicle, trailer can also be treated as part of that motor vehicle or vehicle, therefore it does not require for any separate Homologation Portal approval.

23. Probably, taking into account all these aspects, in some part of the Country, according to the petitioner's counsel, the insistment of Homologation Portal approval is not in practice or it has been kept in abeyance.

24. Be that as it may, if we look at the language used in the Motor Vehicles Act, 1988 especially in the context of sections 2(28) and 2(46), this Court is of the view that, the



tractor once registered, the attached trailer also should be registered along with the tractor, as the trailer will not have a separate power of propulsion. Hence, the insistent of separate Homologation Portal approval for the trailer alone for the purpose of registering the same or endorsing the same in the R.C. Book attached with the tractor concerned, in the considered view of this Court, may not be required or necessary.

25. In that view of the matter, this Court feels that, there can be no impediment for the respondents Registering Authorities of the State Motor Vehicles Department to register the trailer attached with the tractor if the tractor, being a motor vehicle or vehicle, has fulfilled the parameters i.e., registration in the Portal etc., as has been contemplated under Rule 47(3) of the Rules and therefore, in respect of trailer is concerned, separate Homologation Portal approval may not be required.

26. In that view of the matter, this Court feels that, the prayer sought for in this Writ Petition can be accepted by this Court and thus, a direction by way of Mandamus also can be issued.

27. With the result, the following order is passed in this writ petition :

"(i) That there shall be a direction to the respondents, especially the second respondent to consider the request of the petitioner for registration of the tractor trailer manufactured by them along with the tractor concerned for the purpose of registration under the Motor Vehicles Act and Rules made thereunder without insisting separate Homologation Portal approval for the trailer alone.

(ii) In view of the above, the tractor trailer being produced by the petitioner for the purpose of registration can be considered and registered by taking into account the aforesaid legal and factual position by the concerned Regional Transport Authorities of the State."

28. With these observations and directions, this Writ Petition is ordered accordingly. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar



To

1.The Principal Secretary / Transport Commissioner,
Transport Department, Ezhilagam,
Chepauk, Chennai - 600 005.

2.The Regional Transport Officer,
Perundurai, Erode District.

3.The Senior Deputy Director and Head
Homologation, Management, Regulation
and Vehicle Evaluation,
P.M.Transport Bhawan North,
New Delhi.

+1cc to Mr.C.Prakasam, Advocate SR. No.60163
+1cc to Government Pleader SR. No.59776

W.P. No. 12409 of 2021
and
W.M.P. No. 19018 of 2021

PL (CO)
PR (16/12/2021)