

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.1.2021

Delivered on : 31.3.2021

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.Nos.14881, 14883 and 16920 of 2020
and

W.M.P.Nos.18471, 18474 and 20994 of 2020

Tamilnadu Lorry Owners Federation,
rep. by its President,
Mr.Murugan Venkatachalam
No.19, 200 Feet Road,
Sivananda Nagar,
Kolathur, Chennai 600 009.

Petitioner in all the 3 cases

vs.

1. The Principal Secretary-cum-
The Transport Commissioner,
State Transport Authority,
Chepauk, Chennai 600 005.
2. M/s.3M India Limited,
Plot 48-51, Electronic City,
Hosur, Bangalore-100.
3. M/s.Zippy Retail Trading Ltd.,
No.4B, Soundarya Apartments,
Opposite to Velammal School,
Mel Ayanambakkam,
Chennai-95.

Respondents in W.P.14881 of 2020

1. The Principal Secretary-cum-
The Transport Commissioner,
State Transport Authority,
Chepauk, Chennai 600 005.
2. M/s.Avery Dennison (India) Pvt. Ltd.,
Plot No.18 & 23,
Peenya Industrial Area Phase I,
Yeshwanthpur Hobli,
Bangalore-58.

3. M/s.Bolster Solutions,
15/5A, Vishahan Enclave,
Gandhi Nagar Colony,
Erode 638 009.

Respondents in W.P.14883 of 2020

The Additional Chief Secretary/
The Transport Commissioner,
State Transport Authority,
Chepauk, Chennai 600 005.

Respondent in W.P.No.16920/2020

Writ Petition 14881 of 2020 filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the impugned Circular of the first respondent vide R.No.14731/HB2/2020 dated 23.7.2020, consequentially issued vide R.No.16205/HB2/2020 dated 3.8.2020 instructing the subordinate officials of the first respondent to verify the genuineness of the fitment certificate from the respondents 2 and 3 for the grant or renewal of fitness certificate for transport vehicles accessing to the manufacturers portal vehansafety.org and to quash the same and further direct the 1st respondent and its officials to follow the provisions of the Motor Vehicles Act and the Rules for the grant or renewal of fitness certificate for transport vehicles.

Writ Petition 14883 of 2020 filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the impugned Circular of the first respondent vide R.No.14732/HB2/2020 dated 23.7.2020, consequentially issued vide R.No.16205/HB2/2020 dated 3.8.2020 instructing the subordinate officials of the first respondent to verify the genuineness of the fitment certificate from the respondents 2 and 3 for the grant or renewal of fitness certificate for transport vehicles accessing to the manufacturers portal vehansafety.org and to quash the same and further direct the 1st respondent and its officials to follow the provisions of the Motor Vehicles Act and the Rules for the grant or renewal of fitness certificate for transport vehicles.

Writ Petition 16920 of 2020 filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the impugned Circular of the respondent vide R.No.23666/HB2/2020 dated 19.10.2020 instructing the subordinate officials of the respondent to verify the genuineness of the fitment certificate for the grant or renewal of fitness certificate for transport vehicles with the copy of authorization letter issued by the approved manufacturer of reflective tapes/plates in the name of

the authorized dealer alongwith duly affixed seal and signature of the dealer and to quash the same and further direct the respondent and its officials to follow the provisions of the Motor Vehicles Act and the Rules for the grant or renewal of fitness certificate for transport vehicles.

For Petitioner : Mr.S.Govindraman

For Respondents: Mr.Kumaresh Babu,
Addl. Advocate General-XII,
assisted by Mr.E.Balamurugan,
Special Government Pleader, for R1

Mr.Menon, Advocate for R2

Mr.N.Senthil Kumar, Advocate for R3

COMMON ORDER

Writ Petition Nos.14881 and 14883 of 2020 are filed by the Tamil Nadu Lorry Owners Federation through its President as against the Circulars issued by the 1st respondent instructing his subordinate officials to verify the genuineness of the fitments certificates from the respondents for the grant or renewal of fitness certificate for transport vehicles.

2. The petitioner is an Association of Lorry Owners and they are aggrieved over the Circulars issued by the 1st respondent for verification by respondents 2 and 3 with the copy of authorization letter issued by the approved manufacturer of reflective tapes/plates affixed on the vehicles.

3. The case of the petitioner is that the Government of India has notified certain sources for the reflectors/reflective tapes on account of large number of road accidents on the Highways especially due to poor visibility at night. The manufacturers of these reflective tapes and reflectors have to fulfil AIS 090 standards and the manufacturers of reflective plates have to comply with AIS 089 standards. The manufacturers have to obtain Type Approval Certificate (TAC) in conformity with production approved Testing Agencies like ARAI, Pune, VRDI, Ahmednagar, CIRT, Pune and ICAT, Manesar.

4. The learned counsel appearing for the petitioner submits that in view of the impugned circular, the first respondent has authorized certain private Companies to obtain Certificates as a condition for the fitment certificate of the vehicles. The inspecting Officers are instructed by the impugned Notification to verify the genuineness of the fitment certificate issued by the private Companies by hologram, scanning the QR code using

any Smart Phone by online verification from the manufacturers through their server vahansafety.org. On verification of the genuineness of the fitment certificate issued by the private companies, the inspecting Officers shall approve the vehicle for the grant or renewal of certificate of fitness. As against those circulars issued authorizing one 3M India Limited and its authorized dealers M/s.Zippy Retail Trading Private Limited vide circular No.14731 2020 dated 23.7.2020 and as against such similar Circular issued in favour of M/s.Avery Dennison (India) Private Limited and its Dealer Bolster Solutions, the petitioner Federation has filed the two writ petitions in W.P.Nos.14881 and 14883 of 2020 respectively challenging the validity of those Circulars.

5. This court, while entertaining the writ petitions, granted an order of interim stay of the Circulars and thereafter, the respondent issued another Circular dated 19.10.2020 superseding the earlier Circulars in respect of verifying the genuineness of the reflective tapes with the copy of authorization letter issued by the approved manufacturers in the name of the authorized dealers. The Zonal Officers, RTOs and Motor Vehicle Inspectors are directed to follow the existing procedures in renewal of fitness certificates for all transport vehicles as per Rule 104 of Central Motor Vehicle Rules 1989 as far as the fitment of reflectors is concerned.

6. Aggrieved over the same, the petitioner, Tamil Nadu Lorry Owners Federation has filed another writ petition in W.P.No.16920 of 2020.

7. The learned counsel appearing for the petitioner submits that the Motor Vehicles Act and the relevant Rules does not contemplate any certificate as fitment certificate to be issued by the manufacturers of reflective tapes and rear marking plates as a consideration for grant or renewal of fitness certificate for transport vehicles. The Act and Rules do not require the permit holder of the transport vehicle to obtain any certificate from the manufacturers of reflective tapes. As per section 56 of the Motor Vehicles Act, transport vehicle shall not be deemed to be validly registered unless it carries a certificate of fitness as prescribed under Central Motor Vehicle Rules.

8. Mr.Kumaresh Babu, learned Additional Advocate General assisted by Mr.E.Balamurugan, learned Special Government Pleader submitted that the petitions have been filed misunderstanding the Circulars issued by the first respondent to ensure the standards as contemplated under Section 104 of the Central Motor Vehicles Rules. The fitment certificates are issued by the manufacturers of reflective tapes to specify the details and to certify that the reflective tapes fixed on the vehicles is in

conformity to AIS 089 and AIS 090 standards. The said standards are notified by the Ministry of Transport and Highways, Government of India and such fitment certificates are not only issued for reflective tapes but also for other products such as speed limiting devices, vehicle location tracking devices, anti-braking system (ABS Brakes), fire extinguishers, etc.

9. The very purpose of fixing reflective tapes is to avoid accidents and most of the accidents occur due to rear end collision condition due to non-visibility. The learned Additional Advocate General appearing for the respondents have also demonstrated that there are wide range of duplicate products available in the markets both in reflective tapes and rear marking plates and these duplicate products are not in conformity with AIS 090 and AIS 089 standards and in case the reflective tape is duplicated, the very object for which these tapes and rear marking plates are to be fixed itself would be defeated. The learned Additional Advocate General, citing the photographs filed alongwith the typed set of papers, demonstrated as to how the original reflective tapes and duplicate reflective tapes are reflecting the light during the night hours.

10. The genuineness of the reflective tapes were originally verified by the inspecting authorities on manual verification and considering the huge duplicate materials in the market, the second respondent in writ petition Nos.14881 and 14883 of 2020 had come up with an online system replacing the manual fitment certificates and thus the issuance of manual certificate has been discarded with online generated certificates. The online generated certificates are also issued only for the purpose of ensuring the originality of the products so as to confirm the very purpose of Rule 104 and to achieve the object of ensuring the road safety.

11. The learned Additional Advocate General would submit that the online generated fitment certificate issued is a full proof security system and possibility of tampering with them or committing forgery is culled out in this process. He also referred that other States like Gujarat, Maharashtra, Haryana are also issuing the certificates with the same principle.

12. This court paid its anxious consideration to the rival submissions made by the learned counsel for the parties and perused the materials available on record.

13. The impugned Circulars have been issued by the 1st respondent in respect of verifying the online fitment certificates issued by the respondents for reflective tapes and fixed on transport/commercial vehicles. The second respondent,

in the writ petitions are manufacturers of these reflective tapes and the third respondent is an authorized dealer of the second respondent. In order to increase the visibility of the vehicles at night, all vehicles of transport/commercial both passenger and goods vehicle have to fix reflectors/reflective tapes as per Central Motor Vehicle Rules 104 conforming to AIS 090 standards and rear marking plates conforming to AIS 089 standards.

14. The Hon'ble Apex Court constituted Road Safety Committee and monitoring the road safety measures taken by every States of India. These reflectors/reflective tapes should be clearly visible at night from all sides and the manufacturers of these reflectors/reflective tapes and rear marking plates should process the type approval certificate in conformity of production by any one of the testing agencies of Government of India such as ARAI, Pune, VRDI, Ahmednagar, CIRT, Pune and ICAT, Manesar.

15. The Automotive Research Association of India (ARAI) and International Centre for Automotive Technology (ICAT), the authorised testing agencies for issuing approval for AIS standards have approved 10 manufacturers for reflective tapes and rear marking plates. Apart from such authorized manufacturers, several duplicate operators are also supplying these materials which are not having specific standards.

16. The learned Additional Advocate General and the learned counsel appearing for the respondents, by producing certain photographs of the reflecting tapes from the approved manufacturers and the unapproved ones established that the unapproved ones are not having sufficient reflection to meet the object for which it has been insisted. To avoid this unapproved or duplicate or non-standard reflective tapes in the name of approved manufacturers and also to ensure that the reflective tapes under rear marking plates are fixed in compliance with AIS 089 and AIS 090 standards, the manufacturers of reflective tapes and rear marking plates are required to obtain the Type Approval Certificate (TAC) and Conformity of Production (COP) certificates from any of the testing agencies such as a ARAI, ICAT, etc., who are authorized by the Government of India. The approved manufacturers of reflective tapes issues fitment or installation certificate specifying this TAC and COP Certificates and the vehicle details which can be easily verified by the inspecting officials before issuing the fitness certificate.

17. Therefore, this court is of the view that the Circulars issued to the inspecting officials to ensure fitment of reflective tapes and rear marking plates, are in accordance

with law in conformity with AIS 089 and AIS 090 standards and they are not in violation of Central Motor Vehicle Rules and therefore, these writ petitions are dismissed. No costs. The connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Principal Secretary-cum-
The Transport Commissioner,
State Transport Authority,
Chepauk, Chennai 600 005.
2. The Additional Chief Secretary/
The Transport Commissioner,
State Transport Authority,
Chepauk, Chennai 600 005.

+2cc to Mr.N.Senthila Kumar, Advocate, S.R.No.20950
+2cc to Mr.S.Govindaraman, Advocate, S.R.No.20957
+1cc to Mr.Menon, Advocate, S.R.No.20901
+1cc to the Government Pleader, S.R.No.21471, 21941, 21942

P.D. Order in W.P.Nos.14881,
14883 and 16920 of 2020

AK-II(CO)
CB(09/07/2021)