



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. No.21748 of 2021

P.Suseela

... Petitioner

-Vs-

The Registering Authority-cum-Regional
Transport Officer, Coimbatore (Central),
Coimbatore

... Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent herein to re-register the petitioner's bus PY-05/B-4207 without insisting for the disposal of criminal case pending against the driver for fatal accident forthwith.

For Petitioner :Mr.K.Hariharan

For Respondent :Mr.U.Baranidharan, Government Advocate

O R D E R

This writ petition has been filed for the issue of a writ of Mandamus directing the respondent to act upon the application submitted by the petitioner and to re-register the vehicle belonging to the petitioner without insisting for the disposal of the criminal case pending against the driver.

2. The case of the petitioner is that, he is a fleet omnibus operator in Tamil Nadu and Puducherry. The petitioner is the owner of the subject vehicle which is registered in Puducherry. The petitioner decided to re-register the vehicle in Tamil Nadu in order to use the vehicle in Tamil Nadu. Accordingly, the petitioner also got the No Objection Certificate from the Registering Authority at Puducherry for re-registering the vehicle.

3. The petitioner made an application for re-registration of the vehicle to the respondent along with all the relevant documents. The respondent refused to entertain the application mainly on the ground that, there is a criminal case pending and therefore the petitioner must get a clearance from the police



and only thereafter the application submitted by the petitioner will be entertained. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard Mr.K.Hariharan, learned counsel appearing for the petitioner and Mr.U.Baranidharan, learned Government Advocate appearing for the respondent.

5. The main ground that was urged by the learned counsel for the petitioner is that, the respondent had failed to note that no criminal case / F.I.R., has been registered against the vehicle concerned and it has only been registered against the driver. The learned counsel submitted that, the driver was involved in a fatal accident and F.I.R., has been registered for the offences under Sections 279, 337 and 304A of I.P.C. The learned counsel further brought to the notice of this Court Section 47 of the Motor Vehicles Act, 1954 (hereinafter referred to as 'the Act') and Rule 54 of the Motor Vehicle Rules, 1989 (hereinafter referred to as 'the Rules') and submitted that, neither the Act nor the Rules contemplated any restriction in the re-registration of the vehicle, where there is a fatal accident case pending against the driver of the vehicle.

6. Per contra, the learned Government Counsel appearing on behalf of the respondent brought to the notice of this Court the circular issued by the Transport Commissioner in Circular No.110/96 and specifically relied upon Clause 11 in the circular. The learned counsel submitted that, the Transport Commissioner has given instructions to all the registering authorities to obtain police clearance certificate before re-registration under Section 47 of the Act to the effect that, the vehicle is not involved in any theft or any other criminal case. The learned counsel submitted that, admittedly in the present case, there is a criminal case pending and therefore, the respondent was perfectly right in insisting the petitioner to get a clearance certificate from the concerned police authorities.

7. In the considered view of this Court, Section 47 of the Act and the Rules does not place any restraint or restriction in the re-registration of the vehicle, where F.I.R., has been registered as against the driver of the vehicle. There is no indication in any of these provisions that, such re-registration cannot be done pending investigation in a F.I.R., by the police. The circular issued by the Transport Commissioner cannot overrule the Act and the Rules and it has to necessarily fall within the parameters of the provisions of the Act and the Rules. Even otherwise, the circular deals with a case where the vehicle is involved in a theft or other criminal case. In the present case, it is the driver who was involved in a fatal



accident case and therefore, strictly speaking, even the circular will not apply to the facts of the present case.

8. In view of the above discussion, there shall be a direction to the respondent to act upon the application for re-registration of the vehicle and proceed to re-register the vehicle in accordance with Section 47 of the Act and Rule 54 of the Rules and complete the process within a period of four weeks from the date of receipt of a copy of this order.

9. This writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

ssr

To
The Registering Authority-cum-
Regional Transport Officer,
Coimbatore (Central),
Coimbatore.

+1cc to Mr.K.Hariharan, Advocate, S.R.No.52923
+1cc to the Government Pleader, S.R.No.53166

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VSN-II (CO)
CB(12/10/2021)