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Rev.Apln.No.53 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2022

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Review Application No.53 of 2022

in

W.P.No.25908 of 2021

Manimuthu

... Applicant

Vs

1.The Regional Transport Officer,
Salem (West), Salem.

2.The Assistant Registering Authority
Omalur, Salem District.

... Respondents

Prayer: Petition filed under Order 47 Rule 1 of Civil Procedure Code read with Section 114 to review the order dated 04.01.2022 passed in W.P.No.25908 of 2021.

For Applicant : Mr.A.Ganesan

For Respondents : Mr.J.C.Durairaj
Additional Government Pleader

ORDER

This Review Application has been filed to review the order passed by this Court in W.P.No.25908 of 2021 dated 04.01.2022.



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2. The applicant herein was the writ petitioner before this Court in the said writ petition where he sought for a mandamus to entertain his application submitted by him to register his Motor Vehicle (Car) bearing Chasis No.MA1XK2WJXH6G45047, Engine No.WJH6G49459 on 02.11.2021.

3. The fact remains that the writ petitioner purchased the light Motor Vehicle (Car) on 01.09.2017 and he had applied and obtained a temporary Registration number i.e. TN30BJT0183 and the said temporary registration certificate was valid only upto 30.09.2017.

4. Thereafter, within the said period i.e. on or before the expiry of the temporary certificate, the petitioner ought to have made an application to the authority concerned under Section 41 of the Motor Vehicles Act, 1988 (in short 'the Act'). The period prescribed in this regard by the Central Government is reflected in Rule 47 of the Central Motor Vehicles Rules, 1989 (in short 'the Central Rules'), where, it makes clear that under Rule 47(1)(f), along with other certificates when an application is made by the vehicle owner who wanted to register a vehicle on permanent basis, certain documents have to be produced including the temporary registration certificate if any.



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5. Here the case is that, the petitioner admittedly got a temporary registration, therefore when he makes an application under Section 41 of the Act, he should have annexed all those documents and filed the application before the expiry of the temporary registration time along with the copy of temporary registration certificate.

6. However, the petitioner admittedly made this application only on 02.11.2021 whereas the vehicle was temporarily registered on 01.09.2017. Therefore, after four years and two months, when this application was made that was not entertained or rejected by the Transport authorities, as against which, he sought for the said mandamus before this Court in the said writ petition.

7. This Court having considered the rule position that is Section 41 of the Act as well as Rule 47(1) and (2) of the Rules had rejected the writ petition stating that, since the application was filed after four years and in the meanwhile from 01.04.2021 the BS-IV pattern vehicle would not be registered as per the orders of the Hon'ble Supreme Court which was also brought to the notice of this Court.



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8. Accordingly, the said writ petition was rejected by the said order, which is sought to be reviewed.

9. Mr.A.Ganesan, learned counsel appearing for the petitioner has submitted that, the relevant rule is Rule 98 of the Tamil Nadu Motor Vehicles Rules (in short 'the State Rules') which reads thus:

“98. Delay in applying for registration or for renewal of registration — compounding fee.—

Where there is delay on the part of the owner in making application for registration or for the renewal of a certificate of registration of a motor vehicle other than a transport vehicle under sub-section (1) or as the case may be under sub-section (8) of section 41, the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 177, an amount specified in the Table below:—

THE TABLE

Period of delay	Amount (1)	Amount (2) Rs.
1. for a period not exceeding 30 days		40
2. for a period exceeding 30 days but not exceeding 60 days		75
3. for a period exceeding 60 days		100



WEB COPY 10. By relying upon the State Rules, the learned counsel would contend that whenever there is a delay on the part of the owner in making application for registration or for the renewal of a certificate of registration of a motor vehicle other than a transport vehicle under Section 41(1) or Section 41(8) of the Act, the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under Section 177, an amount specified in the Table which varies from Rs.40/- to Rs.100/- depending upon the period of delay i.e. not exceeding 30 days to 60 days and exceeding 60 days. Therefore, the learned counsel appearing for the petitioner by relying upon heavily Rule 98 of the State Rules would submit that, even beyond 60 days whatever the period of delay that can be condoned by getting a fine under Section 177, a sum of Rs.100/- and application can be entertained, therefore the order passed by this Court rejecting the writ petition dated 04.01.2022 is to be reviewed, he contended.

11. Heard Mr.K.Suresh, learned Government Advocate appearing for the respondents who would submit that, insofar as the Rule 1998 is



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concerned, it cannot be interpreted as per the convenient of the owner of the vehicle. Moreover, the Rule 98 of the State Rules cannot go or runs contra to the provisions of the Act. The Government has specifically stated under Section 41 that application shall be made in prescribed format with particulars before a particular period to be fixed by the Central Government in this regard and the Central Government under Rule has already prescribed the period and in case of permanent registration where the temporary registration has already been obtained by the vehicle owner that application should have been made within 30 days and in the case in hand, the petitioner since has made application admittedly after four years, the Rule 98 of the State Rules cannot be stretched upon as has been sought to be interpreted and therefore, the learned Additional Government Pleader would vehemently contend that this review application is deserved to be rejected.

12. I have considered the said submissions made by both sides and have perused the materials placed before this Court.

13. As has been rightly pointed out by the learned Additional Government Pleader appearing for the respondents, the Rule 98 of the



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State Rules cannot run beyond the scope of Section 41 read with Rule 41(1) and 41(8) of the Central Rules.

14. Admittedly the petitioner obtained the temporary registration as early as on 01.09.2017 which expired on 30.09.2017, despite knowing the said fact that the temporary registration certificate was over by 30.09.2017, he applied the vehicle or use the vehicle for more than 4 years and lethargically at his own convenient for the reasons best known to him, he had come out with an application only on 02.11.2021. Therefore, such a long delay cannot be condoned under any provisions of the Act or the Central Rules or the State Rules even under Rule 98 of the State Rules.

15. Moreover, in the meanwhile from 01.04.2021 the BS-IV pattern vehicle cannot be registered as per the dictum of the Hon'ble Supreme Court in this regard, therefore, that is an additional ground under which the plea raised by the petitioner seeking mandamus before this Court in the said writ petition was considered and rejected.



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16. Therefore, this Court finds no reason to interfere with the said order as there is no error apparently on the face of the record in the order sought to be reviewed, hence this Review Application is deserved to be dismissed, accordingly it is dismissed. No costs.

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Index : Yes/No

Speaking Order : Yes/No

Sgl

To

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R. SURESH KUMAR, J.

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