



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2022

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No.25908 of 2021

R.Manimuthu

... Petitioner

-Vs-

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

2. The Assistant Registering Authority,
Omalur, Salem District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents herein to receive the application dated 02.11.2021 for registration of the vehicle bearing Chassis No.MA1XK2WJXH6G45047, Engine Number WJH6G49459 forthwith.

For Petitioner : Mr.A.Ganesan

For Respondents : Mr.K.Suresh
Government Advocate

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents herein to receive the application dated 02.11.2021 for registration of the vehicle bearing Chassis No.MA1XK2WJXH6G45047, Engine Number WJH6G49459 forthwith.

2. The petitioner purchased a Light Motor Vehicle (Car) BOLERO POWER ZLX MICRO HYBRID BS4 with higher purchase agreement with Mahindra and Mahindra Company, Salem with seating capacity of 6+1 total in all 7, which was temporarily registered by the first respondent on 01.09.2017 and assigned Registration No.TN 30BJ T0 183 and the certificate is valid upto 30.09.2017.

3. Thereafter, as per the provisions of the Motor Vehicles Act, the vehicle should have been produced for permanent registration within a time frame. However, the petitioner could not produce the vehicle for permanent registration to the



WEB COPY

respondents and belatedly after four years, the petitioner made an application on 02.11.2021 to the respondents for permanent registration, the same since has not been accepted, the petitioner has filed this Writ Petition seeking for a Writ of Mandamus as prayed for.

4. Heard Mr.A.Ganesan, learned counsel appearing for the petitioner who would submit that, though the vehicle was purchased in 2017 September, where a temporary registration was made, which was valid only for one month period, within which, the petitioner should have made an application for permanent registration, the petitioner could not make it, because, there was a family circumstances and financial problems. Therefore, the vehicle could not be produced for permanent registration before the respondents and hence, there was a belated application. Hence, the said application should be accepted after collecting the necessary fee in lieu thereon with regard to the delay.

5. In this context, the learned counsel appearing for the petitioner has relied upon Rule 109 of the Tamil Nadu Motor Vehicles Rules (in short 'the said Rules'). Under the said Rule 109, according to the learned counsel appearing for the petitioner, if there is any delay on the part of the owner of the motor vehicle in making an application for registration after collecting necessary fee in lieu of such delay as provided under the table in the said rule, such application shall be entertained. Therefore, the application though belatedly filed by the petitioner should have been entertained by the respondents, since they have not entertained or not, receive the same, the petitioner has approached this Court, as the petitioner is entitled to seek for a mandamus to give a direction to the respondents to accept the application and collect the fee in lieu of the delay and to register the vehicle.

6. Heard Mr.K.Suresh, learned Government Advocate appearing for the respondents who relied upon the averments made in the counter affidavit filed by the first respondent and would contend that, the application submitted by the petitioner belatedly cannot be accepted, because, the vehicle was purchased sometime in 2017 and the said vehicle is BS-IV pattern vehicle and those vehicles on or after 31.03.2021 cannot be entertained to be registered as per the orders of the Hon'ble Supreme Court of India. Therefore, the present application made admittedly only in November 2021 cannot be entertained to register the BS IV Type vehicle, which is prohibited for such registration as per the order of the Hon'ble Supreme Court, he contended.



7. I have considered the said submission made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

8. Though the Rule 109 of the said Rules have been heavily relied upon by the learned counsel appearing for the petitioner, this Court after having gone through the same is of the view that, the said Rule does not apply to the facts of the case. The reason being that, the Rule 109 says, where there is a delay on the part of the owner of the motor vehicle in making an application under Sub section 1 of Section 47 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.

9. Therefore, the Rule 109 will apply only in cases, where the application is made under Section 47(1) of the Central Motor Vehicles Act.

10. Section 47 of the Motor Vehicles Act is meant for only when a motor vehicle registered in one State has been kept in another State, for a period exceeding twelve months, the owner of the vehicle shall, within such period and in such form containing such particulars as may be prescribed by the Central Government, apply to the Registering Authority for registration.

11. Here in the case in hand, the application made by the petitioner cannot be considered as an application within the meaning of Section 47(1) of the Motor Vehicles Act.

12. Instead, the application made by the petitioner shall only be treated as an application for permanent registration of the vehicle made under Section 41 of the Act.

13. Section 41 of the Act says that, an application by or on behalf of the owner of a motor vehicle for registration shall be in such form and shall be accompanied by such documents, particulars and informations and shall be made within such period as may be prescribed by the Central Government.

14. In this context, it is to be noted that, the application for registration of vehicle shall be made only under Section 41 of the Act, where if an application is given, it should be accompanied with so many documents, which includes certificate of temporary registration if any made.

15. In the present case, under Section 41, if an application for registration of motor vehicle is made, one of the document to be produced is temporary registration if any, as per Rule 47 (1) (f) of the Rules and here in the case in hand, the vehicle



in question of the petitioner has been temporarily registered during the month of September 2017 and the validity of temporary registration period is for one month, i.e., upto 30.09.2017.

16. Once the vehicle is temporarily registered as per sub-rule 2 of Rule 47, in respect of vehicles temporarily registered, an application shall be made before the temporary registration expires. Therefore before 30.09.2017, the application should have been made by the petitioner under Section 41 r/w Rule 47. Here in the case in hand, the petitioner admittedly made an application after four years, i.e, on 02.11.2021. Therefore, it cannot be treated as an application within the meaning either under Section 41 of the Act or Rule 47 of the Central Motor Vehicles Rules. Therefore, the rejection on the part of the respondents even in entertaining the application from the petitioner is justifiable. Apart from the said reason, beyond 31.03.2021, BS 1V Type Vehicle cannot be registered as per mandate issued by the Hon'ble Supreme Court.

17. For all these reasons, the petitioner cannot seek for a mandamus as prayed in this Writ Petition. Therefore, such kind of mandamus cannot be issued to the respondents to entertain the application of the petitioner which admittedly filed after four weeks which goes against the mandatory requirements under Section 41 of the Act as well as Rule 47 of the Rules. Therefore, this Court feels that, the mandamus sought for cannot be granted. Accordingly, this Writ Petition fails and hence, it is dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

rap / vji

To

1. The Regional Transport Officer,
Salem (West), Salem.
2. The Assistant Registering Authority,
Omalur, Salem District.

+lcc to Mr.A.Ganesan, Advocate SR.No.764
+lcc to Government Pleader SR.No.686

W.P. No. 25908 of 2021

JPL(CO)
GMY(02/03/2022)