

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11592 OF 2023

Ganesh s/o Kautikrao Denge
Age 60 years, Occu: Pvt. Job
R/o Plot No.48, Anurag,
State Bank Colony, Jalgaon,
Tq & Dist Jalgaon

... **Petitioner**

VERSUS

1. The Chief Secretary,
Home (Transport) Department,
The State of Maharashtra,
Mantralaya, Mumbai
 2. Transport Commissioner,
Transport Commissioner Office,
MTNL Building, Fountain 2, 5th Floor,
MG Road, Mumbai-1
 3. Regional Transport Officer,
Regional Transport Office,
Dhule 424 006
 4. Shyam Shivajirao Lohi
Deputy Regional Transport Officer,
Deputy RTO Office,
Jalgaon 425 002
 5. Chandrashekhar Shankarrao Ingle,
Tax Recovery Officer, RTO Office, Dhule
Regional Transport Office,
Dhule 426 006
- ... **Respondents**

Mr. A. P. Gaikwad, Advocate the Petitioner

Mr. D. R. Kale, Government Pleader, for the Respondents-State

CORAM

**: RAVINDRA V. GHUGE, &
Y. G. KHOBRAGADE, JJ.**

RESERVED ON : 17th October, 2023
PRONOUNCED ON : 7th November, 2023

JUDGMENT (Per Y. G. Khobragade, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of both sides.

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioner has prayed for a writ of mandamus to restrain Respondent No. 4 from prohibiting entry of the Petitioner in the office premises of the Deputy Regional Transport Office, Jalgaon.

3. Mr. A. P. Gaikwad, learned counsel for the Petitioner urges that the Petitioner is acting as an agent in the office of Regional Transport Office Jalgaon (RTO) since past more than 20 years. He is acting on behalf of Master or Vehicle Owners under authority letters. However, due to tendency developed by the Official of malpractice/corruption, he lodged a criminal complaint against Respondent No.4 Shyam Lohi- Deputy Regional Transport Officer and three others, to the Anti Corruption Bureau (A.C.B.) on 07.10.2021 for demanding bribe of Rs. 300/- for the official work. Accordingly, a trap was arranged by ACB, but it turned unsuccessful. However, Crime No. 302 of 2021 was registered with Ramanand Nagar Police Station under section 7-A of the Prevention of Corruption Act against one Prashant Bhole @ Pappu Bhole, a private person, who was receiving bribe on behalf of Respondent No. 4, but no offence was registered against

Respondent No. 4. Therefore, the Petitioner filed a private criminal complaint bearing No. 05/2022 under section 156 (3) of Criminal Procedure Code, before the Judicial Magistrate, Jalgaon. After considering the evidence available on record, the learned Magistrate passed an order under section 202 of Cri.P.C., on 16-2-2022. Due to the complaint lodged by the Petitioner with the ACB as well as private criminal complaint, neither Respondent No. 4 nor his subordinates are taking his authorized work and he has been restrained from entering in the premises of R.T.O., Jalgaon. Therefore, the Petitioner and his family members are suffering starvation.

4. The learned counsel for the Petitioner further canvassed that restraining entry of the Petitioner, being authorized person on behalf of vehicle owners, in public premise/office i.e. RTO for performing certain acts or to do certain documentation, is in violation of fundamental rights and against the public interest. Therefore, the impugned action on part of Respondent No. 4 is illegal and bad in law.

5. In support of his submission, the learned Advocate relied on the Judgment dated 6th June, 2002 in *Writ Petition No. 2065 of 1987 "Shri Narendrakumar Hiralal Nashine & Ors., V. State Of Maharashtra* delivered by the Co-ordinate Bench at Nagpur and an interim order dated 13th February, 2015 passed in W.P. 1246 of 2015, Jalgaon Jilha Motor Chalak Malak Pratinidhi Union Vs. State Maharashtra (Coram: R.M. Borde and Sunil P. Deshmukh, JJ.), Order dated 15th September, 2021 in W.P. No. 1729 of

2021, Anil Balkisan Maniyar Vs. State of Maharashtra [Coram: S.V. Gangapurwala J., (as His Lordship then was) and R.N. Laddha, J.] as well as Order dated 25th March, 2015 passed in Writ Petition No. 443 of 2015(Akola Shahr Truck Owners Association and ors. Vs. State of Maharashtra decided on at Nagpur Bench of this Court.

6. Per contra Mr. D. R. Kale, the learned Government Pleader canvassed that no Middleman or Agent is permitted to enter in the office premises of RTO to do any work relating to any vehicle under the provisions of Motor Vehicles Act and Rules framed thereunder. An authorized person is permitted to enter the office to do any work related to RTO on the basis of authority letter on behalf of master/owner of vehicle. The Agent or 'middleman' has no role to play under the Motor Vehicles Act and Rules. It is further submitted that as per amended provisions of Section 44 of the Act, a Motor Vehicle sold by an authorized dealer does not require production before the registering authority for the purpose of registration. Further, on 31.03.2021, the Central Government, Ministry of Road Transport and Highways issued G.R., and delegated power to the vehicle dealer for completion of entire process of registration of vehicles including online payment of registration fees and one time tax. Therefore, any middleman or agent need not visit any Transport Office for registration of Motor Cycle and Light Motor Vehicles (Car). So also, in order to have 100% faceless services, the Motor Vehicle Department and National Informatics Center (NIC)

upgraded all Transport Offices with VAHAN 4.0 and SARTHI 4 System. Therefore, neither the Middleman, Agent, nor the owner of any vehicle is required to visit the Transport Office personally and all work related to vehicles can be done through online portal. Irrespective of the above, the entries of persons are being permitted by the Respondent Authorities in the office for issuance of permanent Driving License, driving test, or verification of international driving licenses.

7. The learned Government Pleader submits that, in view of the orders passed by this Court in Writ Petition Nos. 1246 of 2015 and 1729 of 2021, a person shall be permitted to enter into premises of the Respondents/ RTO for getting the work done on behalf of his master, whose authority letter, on demand shall be produced. The Petitioner is neither authorized nor empowered by any vehicle owner to do any official work pertaining to any vehicle. Therefore, the Petitioner has no right to visit/enter into the RTO for submission of any documents pertaining to transfer/registration of any vehicle. Hence, he prayed for dismissal of the petition.

8. As per provisions of the Motor Vehicles Rules, 1989, certain specific entries are required to be maintained in the records of the Regional Transport Office in respect of vehicles viz., Vehicle Registration, Transfer of ownership, Confirmation of Sale, Termination of Hire-purchase Agreement, Transport Pass, Change in Residence, Validity of Fitness certificate, Driving License, Renewal of Driving License etc. Many times, each and every person

cannot visit the RTO Office to get the above work done.

Rule 65)a) of Central Motor Vehicles Rules,1989 reads as under:

“Rule 65 (a) maintain a register with a separate page for each vehicle containing the registration number of the vehicle for which the certificate of fitness is granted or renewed, the make and model of the vehicle, the engine number and the chassis number of the vehicle along with the pencil print of the chassis number, the name and address of the owner of the vehicle, particulars of any permit of such vehicle, period of validity of certificate of fitness granted or renewed and the signature of the owner of the vehicle or his authorized-representative”.

9. It is needless to say that, the owners of the vehicles visit the Office of RTO for procurement of driving licenses, vehicle transfers, change of address, paying various taxes and other works. But most of them who want to get the work done on their own, are made to do rounds of the RTO and are, eventually, forced to pay the agents to get the work done, due to which possibility of developing corruption cannot be ruled out. It is not in dispute that, on 31.03.2021, the Central Government, Ministry of Road Transport and Highways issued G. R., and delegated power to the vehicle dealer for completion of entire process of registration of vehicles including on-line payment of registration fees and one time tax. So also, in order to ensure 100% faceless services as well as to curb corruption, the Motor Vehicle Department and National Informatics Center (NIC) upgraded all Transport Offices with VAHAN 4.0 and SARTHI 4 System. Therefore, it does not require any person including a Middleman, Agent or even owner of vehicles to visit any Transport Office for the Registration, Transfer, release of

Hire-purchase Agreement or any other work relating to any vehicle and same can be done through online portal.

11. It is submitted that, as of now, online services are made available in each and every office of the Transport Department. The Motor Vehicle Department has come out with a comprehensive plan to reduce visitors to RTO by 95% and only those who need to give permanent driving license test or come up for verification of an international driving license, are required to visit the Transport Offices. The upgraded system has reduced the burden of work due to introduction of online services. The introduction of web-based system allows the people to complete their work without physically visiting any transport offices. The efforts are being made by the Transport Department to ensure that, the public should get better services, from the Transport offices without any middleman or agent. The stand of the State Government and Motor Vehicle Department is to make RTO related work process online and eliminate the agents and touts.

10. There is no statutory provision contemplated under the Motor Vehicles Act and the Rules framed thereunder to appoint an agent (Middleman) within the premises of any Transport Office, or to allow any unauthorized persons to do the work related to RTO Office on the basis of any authority letter on behalf of the owner of the Motor Vehicle. In short, there is no provision to allow such agents to do the work of RTO Office on the basis of letter of authority to be given by the owner of the vehicle. Agent has no role to be played under the Motor Vehicles Act, within the precinct of

the RTO.

11. The amended section 44 of Motor Vehicle Act, deals with production of vehicle at the time of registration. Section 44 provides that, a Motor Vehicle sold by an authorized dealer shall not be required to be produced before registering authority for the purposes of registration. In accordance with GR dated 31.03.2021 issued by the Central Government, the Ministry of Road Transport and Highways, New Delhi, has delegated power to vehicle dealers to complete the entire process of registration of vehicles including online payment of registration fees and one-time tax at the showrooms of dealer. Since the registration of vehicle is done at the dealer point, there is no necessity and requirement to appoint any agent or representative to represent any dealer and any manufacturer in the office of any Transport Department. In fact, there is no need to visit any Transport Office for the registration of Motor Cycle and Light Motor Vehicles (Car).

12. While disposing ***Writ Petition No. 2065 of 1987 "Shri Narendrakumar Hiralal Nashine & Ors., V. State Of Maharashtra*** on dated 6th June, 2002 the co-ordinate Nagpur Bench has observed as under:

" 15. However, we make it clear and as is admitted by the respondents through their return that, if a person enters the premises of respondent no. 1 and 2 on behalf of his master or owners of vehicles with a due authority letter from the master or the owners of vehicles to do specific work on their behalf and other alike work in furtherance thereof shall not be restrained from entering into the premises of respondents nos. 1 and 2 for getting the work done on behalf of their masters, whose authority letter, on

demand, the said person shall produce instantly. With these observations the petition stands dismissed.”

13. The aforesaid order has been referred while passing interim order dated 13th February, 2015 passed in Writ Petition No. 1246 of 2015 (Jalgaon Jilha Motor Chalak Malak Pratinidhi Union Vs. State Maharashtra (Coram: R.M. Borde and Sunil P. Deshmukh, JJ.) and Order dated 15th September, 2021 in Writ Petition No. 1729 of 2021 Anil Balkisan Maniyar-Vs- State of Maharashtra [S.V. Gangapurwala, J. (as His Lordship then was) and R.N. Laddha, J.) as well as in Writ Petition No. 443 of 2015 Akola Shahar Truck Owners Association and ors. Vs. State of Maharashtra decided on 25th March, 2015 at Nagpur Bench of this Court.

14. In the case in hand the Petitioner has himself stated that, since past more than 20 years, he is acting as an Agent in the office of Regional Transport Office Jalgaon. He has been acting on behalf of Masters or Vehicle's Owner under the authority letter. However, the Petitioner has conceded that he has not maintained a single register for recording the works done by him on the basis of an authority letter issued by any vehicle owner in his favour. So also, he cannot produce any such authority letter. The Petitioner is not an authorized person under the Motor Vehicle Rules to do any work relating to any vehicle on behalf of the vehicles owner. Therefore, the Petitioner is having no right or authority to submit any document with the office of Respondent No. 4 in respect of any vehicle. It is not the case of the Petitioner that Respondent No. 4 has restricted entry of

the Petitioner in the Office of RTO for the work to be done in respect of his own vehicle, but restriction upon him is imposed in respect of submitting documents in regard to any vehicle on behalf of vehicle owners in absence of authorization in his favour in that regard. Therefore, in the absence of such authorization, no Writ of Mandamus can be issued to permit the Petitioner to submit documents in respect of vehicles of which he is not owner or authorized on behalf behalf of the owners.

15. In view of above discussion, this Writ Petition is dismissed. Rule is discharged.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan