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W.P.No.23910 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.23910 of 2023

S.Sathya

...Petitioner

Vs.

1.The Regional Transport Officer,
Regional Transport Office,
Kallakurichi.

2.The Inspector of Police,
Thalaivasal Police Station.
Salem District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the first respondent to remove the entry of blacklisting of the vehicle bearing Vehicle Registration Number TN15Q1175 and transfer the ownership of the vehicle in the name of the Petitioner.

For Petitioner : M/s.Meera Gnanasekar

For Respondents : Mr.N.Naveen Kumar
Government Advocate



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ORDER

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The petitioner seeks a direction to the first respondent to remove the blacklisting of the vehicle bearing Registration Number TN15Q1175 and transfer the ownership of the vehicle from the name of deceased husband to the petitioner's name.

2. It is the case of the petitioner that her husband namely, Late.Senthil Kumar purchased a multi axle commercial goods carrier vehicle, manufactured by Ashok Leyland Ltd. on 07.11.2018. The vehicle was registered in the name of the petitioner's husband with Registration Number TN15Q1175. It was purchased by the petitioner's husband by availing loan from IndusInd Bank Ltd, Kallakurichi Branch. During his life time, the petitioner's husband had been paying monthly installments at the rate of Rs.56,392/- to the bank towards repayment of loan amount. Unfortunately he died on 14.09.2022 due to road accident. After his death, the petitioner succeeded to possession of the vehicle and she has been paying monthly installments to the above said bank.

3. It is further stated by the petitioner that subsequent to the death



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of her husband, the petitioner approached the first respondent seeking name transfer in respect of the above mentioned vehicle and the said application has not been considered, on the ground that the second respondent has received certain objections from the Inspector of Police, Thalaivasal Police Station, based on the complaint given by one Devi.

4. The petitioner submitted a representation to the first respondent on 22.06.2023 requesting him to make name transfer for the vehicle. The learned counsel for the petitioner submitted that though the petitioner is entitled to get the name transfer after the death of her husband as she succeeded to the possession of the vehicle, the first respondent has not passed any order for name transfer and therefore, the petitioner is prevented from plying the vehicle. Therefore, she finds it very difficult to pay the monthly installments to the above bank.

5. Section 82 of the Motor Vehicles Act, reads thus:

“82. Transfer of Permit:-(1) Save as provided in subsection (2), a permit shall not be transferable from one person to another except with the permission of the transport authority which granted the permit and shall not, without



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such permission, operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorised by the permit.

(2) Where the holder of a permit dies, the person succeeding to the possession of the vehicle covered by the permit may, for a period of three months, use the permit as if it had been granted to himself: Provided that such person has, within thirty days of the death of the holder, informed the transport authority which granted the permit of the death of the holder and of his own intention to use the permit: Provided further that no permit shall be so used after the date on which it would have ceased to be effective without renewal in the hands of the deceased holder.

(3) The transport authority may, on application made to it within three months of the death of the holder of a permit, transfer the permit to the person succeeding to the possession of the vehicles covered by the permit:

Provided that the transport authority may entertain an application made after the expiry of the said period of three months if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.”



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6. A reading of the above provisions would make it clear that after the death of the permit holder, a person succeeded to the possession of the petitioner vehicle, is entitled to apply for name transfer. As per Sub-Section 3 of Section 82 such application for name transfer has to be filed within three months from the date of death of original permit holder. Proviso to sub-section 3 of Section 82 of Motor Vehicles Act, also empowers the first respondent to entertain an application for name transfer even after expiry of the said period of three months if the applicant satisfies the authority about sufficient cause for not making the application within the time prescribed.

7. In the case on hand, the petitioner said to have submitted the application for name transfer in the Form-31 already and the same has not been considered by the first respondent and subsequently, the petitioner also submitted a representation on 22.06.2023 to the first respondent seeking name transfer and the same has not been considered by the first respondent till date.

8. In view of the above mentioned stated position, the first respondent is directed to consider the request of the petitioner for name



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transfer in accordance with law by considering the petitioner's representation dated 22.06.2023. In case, it is found that the petitioner failed to submit an application for name transfer in prescribed form, the petitioner may be given an opportunity to file an application in a prescribed form. If there is a delay in filing the said application for name transfer in prescribed form, the petitioner may also be given an opportunity to file application to condone the delay. The first respondent shall consider the explanation offered by the petitioner for filing the application with delay, if any, by exercising his powers under proviso to Section 82(3) in accordance with law. In case the delay is condoned or application for name transfer was already filed in prescribed form within time allowed by law, the application for name transfer shall be considered on its own merits and final orders shall be passed within a period of six weeks from the date of receipt of copy of this order.

9. With the above directions, this Writ Petition is disposed of. No costs.

14.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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S.SOUNTHAR, J.
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