

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

231

CWP-4409-2020 (O&M)
Date of Decision: 01.05.2023

RISHIPAL AND ANOTHER

... Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Ms. Molly A. Lakhanpal, Advocate
for the petitioners.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Vivek Singla, Advocate
for respondent No.3.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed for seeking of directions to respondents No.1 and 2 to take appropriate action against the erring official for causing continuous harassment and torment to the petitioner No.1 by negligently losing Registration Certificate of petitioner's motorcycle.

Learned counsel for the petitioner contends that the petitioner had applied to the office of respondent No.3 i.e. Sub Division Magistrate, Kalayat, District Kaithal for issuance of the Registration Certificate for his motorcycle and had also submitted all the necessary documents for the same. However, the respondent-Department lost the same and as a result of failure on the part of the officials of respondent-Department in ensuring the delivery of the said

Registration Certificate, he was challaned by the police for driving the motorcycle without Registration Certificate.

Reply by the Sub Divisional Magistrate has been filed wherein the respondents-Department has admitted that the documents for issuance of Registration Certificate had been submitted by the petitioner. It is averred that the Registration No.HR83-8367 was issued in favour of the petitioner No.1 and the Registration Certificate was dispatched through speed post at the given address vide speed post entry dated 18.07.2018 (Annexure R-3/1). However, the Registration Certificate could not be delivered at the given address by the office of Sub Post Master, Kalayat and was received back undelivered. The same was dispatched again on 12.12.2018 vide Speed Post Receipt attached as Annexure R-3/2 on the given address. The same was not received back. He contends that an application for issuance of duplicate Registration Certificate of the motorcycle was received by the office of respondent No.3 on 25.11.2019. However, as the software reflected a motor vehicle challan against the said Registration Certificate, the duplicate Registration Certificate could not be processed. A complaint agitating the issues raised herein was filed by the petition before CM window, qua which an enquiry was conducted by the Sub Divisional Magistrate and it was found that the Registration Certificate was duly dispatched for the second time on 12.12.2018. Pursuant to the enquiry, it was concluded that there was no discrepancy or deficiency in the working of the employees in the office of the Sub Divisional Magistrate.

A separate complaint was also filed by the petitioner No.1 before the Deputy Commissioner, Kaithal on 06.02.2020. An enquiry was also conducted by the Addl. Deputy Commissioner and a report dated 14.08.2020 (Annexure R-3/4) was also sent by the Addl. Deputy Commissioner noticing

that there was no discrepancy or deficiency in the working of respondents No.3 to 5.

Even though the said written statement was filed on 19.10.2022, however, no replication controverting the same has been filed.

Learned counsel for the petitioner contends that the Registration Certificate was not received by the petitioner and that as a result thereof, the traffic challan was issued to the petitioner for driving the vehicle without being in possession of the Registration Certificate. He claims that he not being at fault, the duplicate ought to be issued to him and traffic challan should be cancelled.

Per contra, learned State Counsel submits that the Registration Certificate was duly sent through speed post at the given address of petitioner No.1, which was not received back by the respondent-Department and as such, the presumption attached is of 'delivery' thereafter. The petitioner approached the Authorities after a period of nearly one year after the Registration Certificate had been sent for the second time and applied for issuance of duplicate Registration Certificate. Since the traffic challan reflected against the registration number of the said vehicle, hence, the duplicate Registration Certificate could not be issued for want of clearance of the traffic challan. He contends that the presumption as per the General Clause Act, 1897 is qua the delivery of the Registration Certificate once the same is sent through the Speed Post to the known address of the petitioner No.1 and has not been received back.

I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

While the grievance espoused by the petitioner is that the Registration Certificate was not received by the petitioner, the stand of the respondent-Authority is that the same was duly dispatched as per the procedure of law and has not been received back after the same was dispatched on second time. The prayer, however, in the present petition is for taking action against the official for purported loss of the Registration Certificate. The same has already been inquired into twice over i.e. by the Sub Divisional Magistrate, Kalayat, District Kaithal as well as Addl. Deputy Commissioner, Kaithal. Hence, there can be no presumption at this juncture that the loss of the Registration Certificate was on account of any negligence on the part of the respondent-Authorities. Hence, no direction can be issued at this juncture for taking any action against the said officials for want of establishing the negligence on their part.

Faced with the above, learned counsel for the petitioners does not wish to press the present petition at this stage and prays for liberty to the petitioners to take recourse to the alternative efficacious remedies available to them in accordance with law.

Hence, without going into the further merits of the present case, it is disposed of as not pressed at this stage with the liberty as aforesaid.

01.05.2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No