



W.P. No. 2405 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 24.04.2024**

**CORAM**

**THE HON'BLE MR. JUSTICE V.BHAVANI SUBBAROYAN**

**W.P. No. 2405 of 2024**

K.Sridharan

... Petitioner

-VS-

1. Transport Commissioner cum Additional Secretary  
Transport Department  
Government of Puducherry  
No. 100 feet road, Mudaliarpet  
Puducherry.

2. Regional Transport Officer  
Transport Department  
Government of Puducherry  
No. 100 feet road, Mudaliarpet  
Puducherry.

3. R.M.Financier  
Respondents

...

**Prayer:-** Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the first respondent and second respondent to issue certificate of fitness for the vehicles bearing Registration No. PY 01 AQ 0223 and PY 01 U 1126 after inspection as per law without insisting upon the production of the original registration certificate of the said two vehicles.

For Petitioner : Mr. J.Suresh



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For Respondents : Ms. G.D.Jearany, GA (Pondicherry)

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## ORDER

Heard Mr. J.Suresh, learned counsel for the petitioner and Ms. G.D.Jearany, learned Government Advocate(Pondicherry) appearing on behalf of the respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. This writ petition has been filed seeking a direction to the first and second respondents for issuing Fitness Certificate without insisting the petitioner to produce the original Registration Certificate of the vehicle.

3. The petitioner's case is that he owned LMV-OB Viram and Vikram Motor Cab Auto and the same are registered with the first and second respondents herein as registration Nos. PY-01-AQ-0223 and PY-01-U-1126 respectively.

4. The petitioner further submits that they are the Registering Authority, Inspection Authority and Certifying Authority under the Motor Vehicles Act. The petitioner has hypothecated both the vehicles with the third respondent for a sum of Rs. 4,95,000/- and Rs. 4,20,000/- respectively during the year 2017



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and 2018, which are reflected in the Registration Certificates of the vehicle. The original Registration Certificates of the both vehicles are deposited with the third respondent and the custody of the said certificates are admitted by the third respondent.

5. Even though the petitioner has paid the entire loan amount borrowed from the third respondent and the third respondent is liable to return the Registration Certificates of the said two vehicles to him, but to the shock of him, the third respondent cheated and committed fraud on him and did not make proper entries and accounted the deposits and claimed that there are outstanding to be paid and levied huge usurious interest on the alleged outstanding amount and claimed huge amounts from him.

6. The petitioner states that the third respondent is a person, who has the habit of cheating and committing fraud on the vehicle owners by not accounting for the money paid and demanding huge illegal usurious interest amounts from the customers. However, on 03.11.2023, proceedings under Section 107 of Criminal Procedure Code were initiated against the third respondent and the petitioner. The Fitness Certificate for the vehicle in respect of Registration No. PY-01-U-1126 and Registration No. PY-01-AQ-0223 had expired on



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05.10.2023 and 21.11.2023 respectively. Due to non-availability of the original

Registration Certificates, the first and second respondents had refused to inspect the two vehicles on the inspection due date.

7. The learned Government Advocate (Pondicherry) appearing on behalf of the first and second respondents, on instruction, submits that for the issue of Fitness Certificate, any applicant concerned has to produce the original Registration Certificate for confirmation of the genuineness of a vehicle by the concerned Authority, for the purpose of verifying the pencil trace of chassis print attached with the application, with that of the chassis print appearing on the original Registration Certificate. This exercise is being practiced by the Registering Authorities in order to curtail the legalization of the theft /stolen vehicles.

8. Moreso, as per Section 51 of the Motor Vehicles Act, 1988, where an application for registration of a motor vehicle which is held under a hire purchase, lease or hypothecation agreement (hereafter in this section referred to as the said agreement) is made, the registering authority shall make an entry in the certificate of registration regarding the existence of the said agreement.



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9. However, in the instant case, the petitioner has not done so. Instead, he states vide para no. 4 of his affidavit that he has deposited the Registration Certificate of the said two vehicles with the Financier /third respondent and the custody of the said certificates was also admitted by the Financier /third respondent. As per Section 51 of the Motor Vehicle Act, 1988, the possession of the Registration Certificates should only be with the registered owner for the use of the vehicle in the public place and endorsement of hypothecation should alone be made in the Registration Certificate by the Authority concerned and Registration certificate should not be deposited with the Financier and they are not competent to do so.

10. As per Section 158 of the Motor Vehicles Act, 1988 the production of certain certificates, licence and permit in certain cases in as under---

- (1) Any person driving a motor vehicle in any public place shall, on being so required by a police officer in uniform authorised in this behalf by the State Government, produce ----
- (a) the certificate of insurance;
  - (b) the certificate of registration;
  - (c) the pollution under control certificate;
  - (d) the driving licence;



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- (e) in the case of a transport vehicle, also the certificate of fitness referred to in section 56, and the permit; and
- (f) any certificate or authorisation of exemption that has been granted under this Act, relating to the use of the vehicle.

As such, it is duty of any permit holder of the transport vehicle to produce the original documents upon demand by the Enforcement Authorities.

11. Further, if the Financier/ third respondent is in the possession of the registration certificate and other documents, he has to hand over them to the registered owner/ permit holder. In case, the Financier does not hold the documents as claimed by the writ petitioner and if the petitioner also does not possess the documents, he can obtain the duplicate certificate of registration from the concerned Registering Authority, as per the provisions of sub-section (14) of Section 41 of the Motor Vehicles Act, 1988 readwith Rule 53 of Central Motor Vehicles Rules, 1989.

12. According to them, the third respondent is in possession of the registration certificates, he has to handover the same to the registered owner and if the petitioner also does not possess the documents, he can obtain the duplicate certificate of registration from the concerned Registering Authority, as



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per the provisions of sub-section (14) of Section 41 of the Motor Vehicles Act, 1988 read with Rule 53 of Central Motor Vehicles Rules, 1989 and on his application, the authorities are directed to consider the same and pass appropriate orders in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order. As it is seen from the averments that the financier is holding the same, the authority can issue a duplicate certificate and it is left open to the petitioner and the third respondent to fight out the real cause regarding payment made towards loans obtained.

The writ petition is disposed. No costs.

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Index: Yes/No

Neutral Citation: Yes/No

Speaking /Non-speaking order

Maya

To

1. The Transport Commissioner cum Additional Secretary  
Transport Department,  
No. 100 feet road, Mudaliarpeta  
Puducherry.
2. The Regional Transport Officer  
Transport Department  
No. 100 feet road, Mudaliarpeta  
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**V.BHAVANI SUBBAROYAN, J.**

*Maya*

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