

(2019) 07 CHH CK 0022
In the Chhattisgarh High Court
Case No : Writ Petition C No. 1162 Of 2019

Chitrasen Sahu

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 03-07-2019

Acts Referred:

Motor Vehicles Act, 1988 — Section 2(14), 2(18), 2(22), 2(25), 21(A)2, 52

Citation : (2019) 07 CHH CK 0022

Hon'ble Judges : Goutam Bhaduri, J

Bench : Single Bench

Advocate : Raza Ali, B. Gopa Kumar, Smita Ghai

Final Decision : Allowed

Judgement

Goutam Bhaduri, J

1. Heard.

2. The present petition concerns with the refusal of registration of a vehicle purchased by the petitioner under 'invalid carriage'.

3. The facts of the case are that the petitioner has purchased a Maruti Dzire Car on 04.10.2017 from the show-room having Engine No.K12MN2101522. It is contended that the petitioner being differently able person as his legs were amputated was constrained to modify the vehicle from the authorized centre at Deccan Motor Cycle & Scooter Garage, Hyderabad so as to make it suitable for him to drive. The petitioner therefore installed hand break instead of foot break and hand accelerator instead of foot accelerator through the authorized centre to suit his convenience to drive. It is further contended that the above modification was done as per the guidelines provided by the MOTOR VEHICLES ACT, 1988 (hereinafter referred to as the Act, 1988) i.e. the ARAI Guidelines. After the modification, the petitioner thereafter reached to the R.T.O. to get his car registered as "invalid carriage" by submitting all the documents. Despite that the vehicle was not registered under the invalid carriage. It is further contended that

the petitioner thereafter has approached to the different authorities but eventually a communication letter dated 12.01.2018 was received which purports that the vehicle so modified should have been manufactured and designed by the manufacturer itself and any deviation from it will not entitle it to be registered as a "invalid carriage".

4. Learned counsel for the petitioner along with the petitioner, who is present before the Court would submit that the petitioner had purchased the Maruti Dzire vehicle and since the petitioner is differently able because of the fact of amputation of both of his legs only the adaption was made in the vehicle and no alteration was made in the original engine or form of car i.e. the design. Learned counsel for the petitioner would submit that the particulars of original make of engine as prescribed in the sale letter, has not been changed. He would further submit that the Maruti Dzire vehicle for the physically handicapped people are not being manufactured by the company for the economic considerations, therefore, the petitioner had no alternative except to modify the vehicle to suit his convenience. The petitioner further contends that presently the vehicle is registered under normal category and the petitioner is using the vehicle without any obstruction or problem. He has placed the reliance in the law laid down by the Madras High Court in the case of C. Paulraj Vs. Secretary Ministry of Transport Chennai {2011 LawSuit (Mad) 4748} and would submit that under the circumstances, the petitioner would be entitled to get his vehicle registered under the invalid carriage.

5. Learned State counsel opposes the arguments advanced by learned counsel for the petitioner and would submit that the requirement as was asked by the RTO by letter dated 12.01.2018 is well merited which do not call for any further interpretation. State has also filed its reply and has stated that the letter dated 12.01.2018 issued by the Assistant Transport Commissioner, Raipur enumerated certain conditions which are required to be followed to get the vehicle registered as invalid carriage. The contention of the State is that any other adoption will not bring the vehicle within the definition of invalid carriage. It is further contended on behalf of the State that any alteration in the vehicle to be made in the vehicle cannot be permitted as per Section 52 of the Act, 1988.

6. Shri B. Gopa Kumar, learned Assistant Solicitor General for the Union of India adopts the arguments advanced by learned State counsel.

7. I have heard learned counsel for the parties and perused the documents.

8. As per Annexure P-1, which is a disability certificate issued by District Medical Board, District Hospital Balod (C.G.), would show that the petitioner has suffered amputation of both the legs, which has resulted into 60% disability. In respect of the rest of the body the petitioner do not suffer any other disability except the amputation of the legs. In such circumstances it can be very well assumed that he would not be able to drive the vehicle as it was in original form wherein the brake & accelerator are to be operated by foot. The documents would show that

the vehicle was purchased on 04.10.2017, subsequent to it the vehicle was sent to Deccan Motor Cycle & Scooter Garage, Hyderabad as per Annexure P-4 wherein by certain modification of hand brakes & hand accelerator it was made useful to be adopted by the petitioner, who is physically handicapped. Such change was made to suit the convenience of the petitioner, the adaption of accelerator and break were made as hand break and hand accelerator, except such change no other change was made in the body of engine or mode of fuel use.

9. At this juncture definition of invalid carriage would be of relevance, which is defined under sub-section (18) of Section 2 of the Act, 1988 is reproduced hereunder:-

"Section 2 (18) "invalid carriage" means a motor vehicle specially designed and constructed, and not merely, adapted, for the use of a person suffering from some physical defect or disability, and used solely by or for such a person;"

10. The adaption of the nature would show that it was carried out to suit the convenience of the petitioner. The hand break and hand accelerator were attached to the vehicle by the private mechanic without changing the basic feature of the vehicle. At this juncture the reference to the law laid down by the Madras High Court in the case of C. Paulraj (supra) would be of relevance, which expresses that as per Section 2 (18) of the Act, 1988 "invalid carriage" means a motor vehicle specially designed and constructed and not merely adapted for the use of a person suffering some physical defect or disability and used solely by or for such person. The expression adapted has not been defined in the statute. As per concise Oxford Dictionary 10 th Edition, the word 'adapt' is a verb, which means make suitable for a new use of purposed.

11. The intention of the legislature can be drawn from the fact that the word manufacturer has been separately defined under Section 2 sub-section 21 (A) of the Act, 1988, which reads as under :-

"2[(21A) "manufacturer" means a person who is engaged in the manufacture of motor vehicles;]"

12. Reading of the definition of manufacturer with sub-section 18 of Section 2 of the Act, 1988, which defines the invalid carriage, it would show that the word manufacturer has not been used in sub-section 18. Likewise, the word adapted has been used in sub-section 14 of Section 2 of the Act, 1988, which defines the goods carriage. Sub-section 22 of Section 2 of the Act, 1988, defines the word "maxicab", which defines the means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers excluding the driver, for hire or reward. Likewise, sub-section 25 of Section 2 of the Act, 1988 defines the word motorcab, which means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward. Therefore, the word adapted used in sub-section (18) of the Section 2 would only mean to show that it was used to make suitable for new use of

purpose. Adapted, therefore, used in sub-section 18 is to be considered as an adjective to understand in such sense the expression can be meant suitable.

13. Further the Madras High Court in the case of C. Paulraj (supra) has held thus in para 14 which is reproduced hereunder"-

14. At this juncture, it is relevant to note that Section 2(18) of the Motor Vehicles Act, 1988 was considered by a learned Judge of this Court in W.P.(MD) No.4482 of 2008 (decided on 16.05.2008) (R.RAMASAMY VS. THE SECRETARY, MINISTRY OF TRANSPORT, CHENNAI AND OTHERS) wherein the learned Judge has held that conversion made by a private mechanic, without changing the basic feature of the motor vehicle, can be registered as invalid carriage, by the registering authorities. The word "adapted" in Section 2(18) of the Motor Vehicles Act, 1988 was interpreted by this Court and is held that it means only "suitable" and it should not be understood that only a vehicle specially manufactured by the manufacturer could alone be registered as invalid carriage. At this juncture, it is relevant to extract paras 18.3 to 18.10 of the said judgment, which reads as under:

"18.3. As per Section 2(18) the expression "invalid carriage" means a motor vehicle specially designed and constructed, and not merely adapted, for the use of a person suffering some physical defect or disability, and used solely by or for such person. The expression "adapted" has not been defined in the statute. As per Concise Oxford Dictionary 10th Edition, the word "adapt" is a verb, which means "make suitable for a new use of purpose".

18.4. The expression "adapted" has been used in various definition clauses such as in Sections 2(14), 2(18), 2(22), 2(25), 2(26), 2(28), 2(29), 2(33), 2(35), 2(40) and 2(43). Meaning has to be ascribed to such expression keeping in view the context in which it has been used. Though ordinarily the word "adapted" can be considered as past tense of the verb "adapt", at times such expression "adapted" can be considered as adjectival. Understood in such a sense, the expression can mean "suitable".

18.5. In the context in which it has been used in Section 2(18) the word "adapted" means suitable. It becomes more clear when the preceding expression refers to "a motor vehicle specially designed and constructed, and not merely adapted".

18.6. In several decisions, such expression "adapted" has been understood to mean "suitable" or "suited".

18.7. In BOLANI ORES LTD. V. STATE OF ORISSA), 1975 AIR (SC) 17 it was observed:-

"19. While dealing with the English cases it must not be forgotten that the definition of "motor vehicle" in the Road Traffic Act imports the element of intention into the definition for ascertaining whether a vehicle is a motor vehicle. In Maddox v. Storer Lord Parker, C.J. was construing the word "adapted" when

used disjunctively with "constructed." He observed:

"One can get illustration after illustration, on looking at the Act itself, where 'adapted', when used disjunctively with 'constructed' must mean a physical alteration, and, as it seems to me, other cases where the word 'adapted' alone is used and where it must be given the adjectival meaning of being fit and apt for the purpose." But where the word "adapted" alone has been used such as in sub-paragraph (2) of paragraph 1 of the First Schedule to the Road Traffic Act, 1960, he was of the view that it was wholly inapt to mean "altered so as to make fit". He asked "How do you alter a motor-car so as to make it fit to carry not more than seven passengers"? It is clearly there standing on its own, susceptible only of meaning "fit and apt for the purpose."

22. As usual references have been made to the Dictionaries but quite often it is not possible to hold a dictionary in one hand and the statute to be interpreted in the other for ascertaining the import and intent of the word or expression used by Legislature. The shade of meaning of a word, its different connotations and collocations which one finds in a dictionary does not relieve us of the responsibility of having to make the ultimate choice of selecting the right meaning. We choose that meaning which is most apt in the context, colour and diction in which the word is used. The use of a dictionary ad lib without an analysis of the entire Act, its purpose and its intent, for ascertaining the meaning in which the Legislature could have used the word or expression may not lead us to the right conclusion. With this caution before us for avoiding any of the aforesaid methods which might lead to a possible incongruity, we will examine the different facets to which our attention has been drawn.

23. The meaning of the word "adapted" in Section 2(18) of the Act is itself indicated in Entry 57 of List II of the Seventh Schedule to the Constitution, which confers a power on the State to tax vehicles whether propelled mechanically or not and uses the word "suitable" in relation to its use on the roads. The words "adapted for use" must therefore be construed as "suitable for use". At any rate, words "adapted for use" cannot be larger in their import by including vehicles which are not "suitable for use" on roads. In this sense, the words "is adapted" for use have the same connotation as "is suitable" or "is fit" for use on the roads.

18.8. Similar meaning was attributed by the Supreme Court in *CENTRAL COAL FIELDS LTD. V. STATE OF ORISSA AND OTHERS*, 1992 AIR (SC) 1371.

18.9. IN *GOVERNMENT OF A.P. AND ANOTHER V. ROAD ROLLERS OWNERS WELFARE ASSOCIATION AND OTHERS*), (2004) 6 SCC 210 the Supreme Court, while considering the question as to whether a road roller is a motor vehicle within the meaning of Section 2(28) of the Motor Vehicles Act, observed: "5 Undoubtedly, a roadroller is meant for repairing roads. This itself shows that it is adapted for use on roads. A roadroller is not capable of being used off the road. Merely because its purpose is to repair roads does not mean that it is not suitable or not adapted for use on roads. We fail to understand from where the

High Court concludes that the connotation of vehicle must mean a conveyance for carrying people or goods. The definition of motor vehicle does not so provide. Merely because a vehicle does not carry passengers or goods does not mean that it ceases to be a motor vehicle. So long as it is a vehicle, which is mechanically propelled, and is adapted for use on roads, it is a motor vehicle within the meaning of the Motor Vehicles Act, 1988."

18.10. From the aforesaid decisions, it is apparent that the expression "adapted" has been used in different provisions of the Motor Vehicles Act which carries the meaning of "suitable" or "capable of being used" on the road. It is used as an "adjectival" expression rather than a verb."

14. The interpretation of adapted as a suitable can further be drawn from the definition of goods carriage, maxicab, motorcab, which has been used in a definition. As normally after sale of the chassis of a vehicle for different commercial use of different purposes the changes are done to convert it as a passenger car or goods vehicle, meaning thereby adaption is being done to suit for which it is to be used. The restriction of Section 52 of the Act, 1988 which speaks about the alteration of the motor vehicles, will not come into play as necessarily it would mean to change the entire basic feature of the motor and in a given case the engine and further parts of the vehicle were same but certain alteration was carried out. The nature of alteration may differ from facts to facts of each case and no straight jacket formula can be adopted so as to envelop it within word alteration as used in Section 52 of the Act, 1988.

15. The petitioner has stated that the vehicle at present is registered under normal category and he is using the same, which is not been disputed by any one. In view of the aforesaid parameters, it is directed that the respondent authorities shall inspect the vehicle of the petitioner, whether the alterations have been in original basic feature of car or not i.e. primarily the engine and fuel use or the design of the car is as it was at the time of purchase or simply as claimed hand brakes and accelerator has been modified to suit the convenience of the petitioner alone. Thereafter the authorities shall register the same as under the category of "invalid carriage". It is further directed that since the vehicle has already been registered under normal category, necessary amendment shall be carried out by the subsequent change of registration to that of invalid carriage. The consequences of it return or adjustment registration fees shall follow as a necessary consequences.

The petition stands allowed.