
(2016) 05 KL CK 0026
In the High Court Of Kerala
Case No : W.P.(C). No. 18349 of 2016 (P)

G. Nagaraj

APPELLANT

Vs

Registering Authority/Regional Transport Officer

RESPONDENT

Date of Decision : 27-05-2016

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 4, 47
Constitution of India, 1950 — Article 14, 21, 301
Motor Vehicles Act, 1988 — Section 28

Citation : (2016) 3 KerLJ 74 : (2016) 3 KHC 312 : (2016) 2 KLT 946

Hon'ble Judges : Shaji P. Chaly, J.

Bench : Single Bench

Advocate : Sri. P. Santhosh Kumar and Sri. T.P. Sajan, Advocates, for the Appellant; Smt. K.A. Sanjeetha, Sr. Govt. Pleader, for the Respondent

Final Decision : Disposed Off

Judgement

Shaji P. Chaly, J.—This writ petition is filed by the petitioner seeking direction to the respondent to accept Ext.P6 application for permanent registration and grant registration for the new vehicle covered by Exts.P2, P3 and P5 and register the vehicle in accordance with the provisions of Section 40 of the Central Motor Vehicles Rules in the address shown in Ext.P4 certificate.

2. Brief facts for the disposal of the writ petition are thus; petitioner is a stage carriage operator, operating five regular service under the jurisdiction of the respondent authority. Petitioner is a permanent resident of Coimbatore, State of Tamil Nadu. For the purpose of his business he is temporarily residing at Chunnamputhara, Palakkad District. Petitioner is aggrieved by the non-receipt of Ext.P6 application by the respondent for registration of the new vehicle purchased by him for replacing the stage carriage with respect to Ext.P1 registration certificate bearing No.KL 09 U 9588. It is the contention of the petitioner that a temporary registration for the new vehicle was obtained, body was constructed and submitted Ext.P6 application for registration of new vehicle

along with all the relevant documents. But however the respondent authority has refused to accept Ext.P6 application for the reason that address proof envisaged under Rule 4 of the Central Motor Vehicle Rules has not been furnished by the petitioner. Legal contention raised by the petitioner is that as per Section 40 of the Motor Vehicles Act, 1988, every owner of a motor vehicle shall cause the vehicle to be registered by a registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept. The contention of the petitioner is that in accordance with the said provision, petitioner has produced Ext.P4 certificate of residence issued by the Village Officer, Palakkad in order to establish that petitioner is having a place of business at Chunnamputhara, Palakkad District.

3. That apart it is contended by the petitioner that all the other vehicles of the petitioner including the vehicle for which replacement is sought is registered by the very same registering authority under the very same residence proof provided by the petitioner. Therefore, it is the contention of the petitioner that the non-receipt of Ext.P6 application by the respondent is violative of the provisions of the Motor Vehicles Act and Rules and therefore, aggrieved by the same, petitioner is constrained to approach this court by filing the writ petition seeking the requisite reliefs.

4. Heard learned counsel for the petitioner and the learned Government Pleader.

5. The question to be considered in this case is whether the petitioner has provided necessary proof as provided under Rule 4 and 47 of the Central Motor Vehicles Rules so as to enable the petitioner to get the vehicle registered as per Ext.P6 application. Admittedly petitioner is a permanent resident of Coimbatore, State of Tamil Nadu and the documents like driving licence, electoral ID etc. etc. are issued to the petitioner with the permanent address at Coimbatore and therefore, the same are not sufficient enough to prove the residence of the petitioner in Kerala. Any how petitioner has produced a certificate from the Village Officer to establish that petitioner is having an office at Chunnamputhara, Palakkad District. That apart I find from the records and pleadings that all the vehicles owned by the petitioner are registered by the petitioner before the very same registering authority in the address presently shown by the petitioner in Ext.P6 application. On a perusal of Rule 4 of the Central Motor Vehicles Rules, it is categoric and clear that several identity proofs are provided and the applicants are at liberty to produce any of the same in order to establish the address proof as well as the age proof. That apart a residuary provision as per sub-rule 12 is made enabling the applicants to produce a sworn affidavit attested by an Executive Magistrate or the 1st Class Judicial Magistrate or a Notary Public as evidence of age and address.

6. Admittedly petitioner has not produced the affidavit attested by any such authority. On the other hand petitioner has chosen to produce the certificate issued by the Village Officer to prove his address at Chunnamputhara, Palakkad District.

7. Being a resident of State of Tamil Nadu, petitioner may not be in a position to produce the certificates provided under Rule 4 of the Central Motor Vehicle Rules. It is with the intention to tide over such a situation that sub-rule 11 is provided to Rule 4 whereby any other document or documents as may be prescribed by the State Government under Clause (k) of Section 28 can be taken into account for the purpose of identifying the age and address of the applicants.

8. Article 301 of the Constitution of India provides freedom of trade, commerce and intercourse to the citizens throughout the territory of India freely. Therefore, merely because petitioner is a resident of Tamil Nadu and he has only the identity proof as per Rule 4, issued by the authorities at Tamil Nadu, petitioner cannot be prohibited from carrying out any business anywhere in the country subject to restrictions provided by the respective State Governments with respect to plying of the vehicle or tax etc. etc. That being the position, the respondent cannot insist that the proof provided under Rule 4, sub-rules 2 to 10 alone will be considered for the purpose of identifying the age and address proof within the territory of the respondent registering authority. In this case petitioner has produced a certificate from the Village Officer, Palakkad along with Ext.P6 application, by virtue of which, the respondent will be at liberty to make due enquiries and take appropriate decision on the same. Petitioner can also be provided with time if required to produce a certificate from any of the authorities mentioned under the proviso to Rule 4 also.

9. It is submitted by the learned counsel for the petitioner that as per Ext.P5 dated 23.5.2016 petitioner is granted 5 days time to produce the vehicle for registration and the said time expires today. Taking into account all the facts and circumstances discussed above, I am inclined to issue a direction to the respondent to receive Ext.P6 application from the petitioner along with the documents appended thereto and consider the same within a time frame.

10. Therefore, there will be a direction to the respondent to receive Ext.P6 application along with all the documents required for the purpose of the registration of the vehicle and consider the same in accordance with law also taking into account the observations made above. If the registering authority is not satisfied with the certificate issued by the Village Officer, the registering authority will be at liberty to carry out necessary enquiry in order to identify the bona fide residence of the petitioner within the territorial jurisdiction of the respondent authority. That apart the authority will be at liberty to consider any of the certificates produced by the petitioner as provided under the proviso to Rule 4 of the Central Motor Vehicles Rules. If the State Government has issued any notification under Section 28(k) enabling the applicants to produce proofs other than provided under Rule 4 of the Central Motor Vehicles Rules, the same shall also be taken into consideration by the Registering Authority. The Registering Authority will also take into account the fact that 5 vehicles operated by the petitioner are registered by the Registering Authority in the very same address. Any how a decision shall be taken in that regard within a period of two weeks

from the date of receipt of a copy of this judgment. However, in view of the expiry of the time today as provided by the respondent under Ext.P5, there will be a direction to the respondent to permit the petitioner to produce the vehicle on or before 1.6.2016. It is also directed that the number for the vehicle, reserved by the petitioner will not be disturbed till 01.06.2016.

11. Writ petition is disposed of accordingly.