

(1995) 12 KAR CK 0001
In the Karnataka High Court

Joint R.T.O. Alwaye

APPELLANT

Vs

Joshi

RESPONDENT

Date of Decision : 21-12-1995

Acts Referred:

Motor Vehicles Act, 1988 — Section 41, 44
Motor Vehicles Rules, 1989 — Rule 47

Citation : (1996) 2 ACC 383

Hon'ble Judges : K.T. Thomas, Acting C.J.; P. Shanmugham, J

Bench : Division Bench

Judgement

K.T. Thomas, Ag. C.J.

1. The question to be determined in these two cases is the same and hence we thought it convenient to dispose of them by this common judgment.
2. Petitioners in both cases are owners of the "Light Motor Vehicle" each and they have applied for registration of their vehicles before the Registering Authority under the Motor Vehicles Act, 1988 (for short "the Act"). In one case, the Registering Authority dismissed the application as per Ext. P4 order against which the applicant filed Original Petition under Art. 226 of the Constitution. A learned Single Judge allowed the Original Petition and directed the Registering Authority to register the vehicle. That judgment is now being challenged by the Registering Authority in the appeal before us. The other case is the Original Petition filed by the other applicant on the ground that the Registering Authority has not passed order on his application and hence prayed for a writ of mandamus directing the Registering Authority to register the vehicle as requested by him.
3. The stand adopted by the Registering Authority in both cases is that the vehicle concerned in each case has a seating capacity of nine whereas the applicants have shown it as seven and, therefore, registration cannot be granted on such incorrect particulars furnished.

4. The vehicles in both cases are "Hindustan Diesel Trekkers" and both of them were purchased from M/s. Marikar (Motors) Ltd., Pondicherry. Both were manufactured by M/s. Hindustan Motors Ltd., Calcutta. Unloading weight and horse power of both vehicles are the same. It is not disputed before us that in the applications for registration petitioners have shown each vehicle as having seating capacity of seven excluding the driver.

5. The stand of the Registering Authority, (as could be gathered from the Writ Appeal) is the following: When vehicles are produced for inspection the Inspecting Officer reported that the vehicle has a capacity of nine seats and that two seats provided by the manufacturer were removed and its space has been kept vacant. Though the sale letter issued by M/s. Marikar (Motors) Ltd., in Form 21 states that seating capacity is seven (in all) other sale letters issued by the same Company for other identical vehicles have shown that the seating capacity is nine (in all). Even the manufacturer has described those vehicles as having seating capacity of nine. So the Registering Authority submitted that petitioners are only entitled to get the vehicles registered as nine-seater vehicles.

6. We may point out that it is not disputed before us that both vehicles were designed the same way as other "Light Motor Vehicles" manufactured by the same Company. Nor has it been disputed before us that the other Light Motor Vehicles are nine seater vehicles. But the contention is that though the vehicle was designed for providing nine seats, only seven seats have been provided in the vehicle and hence it could only be treated as a seven seater vehicle.

7. In order to appreciate the above contentions, we have to refer to the provisions dealing with grant of registration to motor vehicles etc. Chapter IV of the Act deals with registration of motor vehicles. Without registration no person shall permit the vehicle to be driven in a public place. It is the liability of the owner of a motor vehicle to cause it to be registered by a Registering Authority.

8. Section 41 of the Act deals with the procedure for registration. Sub-section (1) requires that the application for registration shall be in the prescribed form accompanied by prescribed documents. Sub-section (3) enjoins on the Registering Authority to issue the certificate of registration "in such form and containing such particulars and information". Such certificate shall specify the type of the motor vehicle "having regard to the design, construction and use of it". Section 44 of the Act confers power on the Registering Authority to require production of the vehicle before him to satisfy that the particulars shown in the application are true.

9. At the same time it is to be noted that u/s 45 of the Act, Registering Authority has power to refuse to register any motor vehicle in certain circumstances. One such circumstance is that if the applicant has furnished inaccurate particulars in the application for registration of the vehicle, such refusal shall be by an order containing reasons for such refusal.

10. Rule 47 of the Central Motor Vehicles Rules, 1989 (for short "the Rules")

requires that an application for registration shall be made in Form 20 accompanied by the documents enumerated in the rule. One such document is the sale certificate in Form 21. In this context, Rule 48 has to be read. It is extracted below:

On receipt of an application under Rule 47 and after verification of the documents furnished herewith, the Registering Authority shall, subject to the provisions of Section 44, issue to the owner of the motor vehicle a certificate of registration in Form 23.

11. It is clear to us that Registering Authority is entitled to refuse registration when the application contains inaccurate particulars of the vehicle. Be that so. Even then the applications involved in these cases cannot be sidelined merely on the ground that they contain inaccurate particulars. No doubt the applicants have stated in both applications that the vehicles have only seven seats each. What is required to be stated is not the actual seats provided in the vehicle, but the actual "seating capacity". Application for registration has to be submitted in Form 20. It contains a column as Item No. 19 to state about "seating capacity" of the vehicle. Certificate has to be issued in Form 20. There is a column in it for showing the "seating capacity (including driver)". Necessarily the Registering Authority has to enter the correct particulars in the certificate.

12. "Seating capacity" is apparently different from actual seats provided in a vehicle. This can be illustrated thus: Even if a vehicle has a seating capacity of 20, the owner can provide only one seat in the vehicle. But seeing capacity will not thereby dwindle down to one. Capacity for providing seating accommodation in the vehicle is what is meant by seating capacity. It depends upon the design, the horse power, the unladen weight and other allied factors. It is not disputed before us that identical vehicles manufactured by the same Company have a seating capacity of nine. Nor has it been disputed before us that nine seats could not have been provided in the vehicles involved in these cases. When Registering Authority conducted inspection as required in Section 44 of the Act, it was satisfied that the seating capacity of both vehicles is nine.

13. Be that as it may, we are not inclined to hold that the application for registration should have been rejected outright on account of that deficiency alone. The registration could have been granted by indicating in the certificate (in the appropriate column) that the seating capacity of the vehicle is nine.

14. We, therefore, direct the Registering Authority to issue registration certificate in respect of both vehicles by showing the correct seating capacity of each vehicle.

Writ Appeal and Original Petition are disposed of in the above terms.