

**(2003) 11 MAD CK 0002**

**In the Madras High Court**

**Case No :** Writ Petition No's. 32285 to 32288 of 2003

K.P. Govindarajan

APPELLANT

Vs

Secretary, Regional Transport Authority

RESPONDENT

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**Date of Decision :** 12-11-2003

**Acts Referred:**

Central Motor Vehicles Rules, 1989 — Rule 88(1)

**Citation :** (2004) 1 ACC 651 : (2004) 1 CTC 525

**Hon'ble Judges :** R. Balasubramanian, J

**Bench :** Single Bench

**Advocate :** N. Gopalakrishnan, for the Appellant; Sanjay Ramasamy, Government Advocate, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

R. Balasubramanian, J.—Admit. Mr. Sanjay Ramasamy learned Government Advocate takes notice. With the consent of the learned

counsel on either side, the writ petitions are taken up for final disposal. The petitioner in each case is holding a national permit, the validity of which

is upto 31.03.2004. The vehicles in question are admittedly 12 years old. The relief asked for in the writ petitions is for a direction in the nature of

a mandamus to the respondent forbearing him or any of his subordinates from interfering with the operation of the vehicles in question till the expiry

of the permit, on the ground that the vehicles are more than 12 years old. It is not in dispute that Rule 88 of the Central Motor Vehicle Rules, 1989

applies to the case on hand. Under the above Rule, no national permit shall be granted in respect of goods carriage, which is more than 12 years

old at any point of time. This Rule is absolute. No discretion is left to the Authority concerned to give a permit in respect of a vehicle which is more

than 12 years old.

2. From a reading of Rule 88(1) of the said Rules, it is clear that the vehicle, to be covered under a national permit throughout the validity of the

permit, should be less than 12 years old. If the relief as prayed for is granted, then it would amount to directing a public authority to disobey a Rule,

which is mandatory in nature. It is true, as pointed out by the learned counsel for the petitioner, that I have followed the earlier orders of this Court

in the few sittings, which I had on this writ jurisdiction, granting the relief as prayed for. But on second thoughts, it strikes to my mind that a

mandamus can never be granted to do an act, which is forbidden by law. If it is so given, then it would amount to mockery of justice. Consequently

the writ petitions stand dismissed. No costs .