
(2000) 08 KAR CK 0081
In the Karnataka High Court
Case No : Writ Petition No. 17753 of 2000

Mani Motor Driving School	Vs	APPELLANT
The Commissioner for Transport and Another		RESPONDENT

Date of Decision : 21-08-2000

Acts Referred:

Motor Vehicles Rules, 1989 — Rule 24 (1), 24 (3), 28, 47, 48

Citation : (2000) 4 KCCR 2554

Hon'ble Judges : Mohamed Anwar, J

Bench : Single Bench

Advocate : Puttige R. Ramesh, for the Appellant; B.H. Satish, High Court Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Mohamed Anwar, J.—Heard both sides.

2. Petitioner, who is the owner of licenced Motor Driving School has called in question the notice No. R.T.O.-B(C).LD.2000-01, dated 4.5.2000 vide Annexure-A issued by Respondent No. 2-Assistant Regional Transport officer, Bangalore Central Koramangala, Bangalore, calling upon the Petitioner to get an entry made in the Registration Certificate of the vehicles maintained by him indicating the fact of fixing of dual control system thereto, as required by Sub-clause (5) of the relevant Rule 24 of the Central Motor Vehicles Rules, 1989 (the "Central Rules" in short).

3. In the counter filed by Respondent No. 2 it is stated that the impugned notice issued by him was in conformity with the provisions of Clause (5) of Rule 24(3) of the Central Rules.

4. Rule 24 of the Central Rules, 1989 provides a detailed procedure for establishment and maintenance of driving school for imparting instructions for hire or reward in driving motor vehicles. Sub-rule (1) thereof states that no person shall establish or maintain such a School without a licensee in Form No.

11 granted by the Licencing Authority. Sub-rule (2) of Rule 24 provides for making of an application in prescribed Form No. 12 or Form No. 13 as the case may be, for the grant or renewal of a licence under Sub-rule (1). Explanation appended to Rule 24(2) defines the "Licensing Authority" for the purpose of Rule 24(1). Sub-rule (3) of Rule 24 provides for examination by the Licensing Authority of the various relevant matters stated in Sub-clauses (i) to (vi) and (viii) thereof while considering an application for the grant or renewal of the licence under Rule 24(1). The relevant Sub-clause (v) of Rule 24(3) reads:

24. Driving schools and establishments:

(1) xxx xxx xxx (2) xxx xxx xxx (3) The licensing authority shall, when considering an application for the grant or renewal of a licence under this rule, have regard to the following matters, namely:

i) xxx xxx xxx ii) xxx xxx xxx iii) xxx xxx xxx iv) xxx xxx xxx v) The vehicles are available exclusively for purposes of imparting instruction and all such vehicles, except motor cycles, are fitted with dual control facility to enable the instructor to control or stop the vehicle.

vi) xxx xxx xxx vii) xxx xxx xxx

(4) xxx xxx xxx (5) xxx xxx xxx

5. As could be seen from the text of Sub-clause (v) of Rule 24(3) or for that matter all the provisions of Rule 24, they do not require the licenced owner of a driving school or establishment to get an entry made in the registration certificate of a particular vehicle of the school about the fixing of the dual control facility in that particular vehicle in compliance with Sub-clause (v) of Rule 24(3). Nor the other relevant provisions of Rules 47 and 48 of the Central Rules, 1989, which deal with an application for registration of a motor vehicle to be made by the owner thereof and the issue of certificate of registration in respect thereof, respectively, cast any obligation on the part of the owner of a vehicle of the Driving School to have such an entry made in its registration certificate in respect of fitting of the dual control system to that vehicle. On consideration of these relevant provisions of the Central Rules, 1989, it therefore, becomes clear that Respondent No. 2 had no authority or power in law to issue the impugned notice dated 4.5.2000 vide Annexure-A to the Petitioner calling upon him to get an entry made in the registration certificate of the motor vehicles of his driving school indicating therein that all the said vehicles are fitted with the dual control facility. On the other hand, if the licenced owner of any driving school or establishment is found to have committed breach of any conditions of the licence issued to him/her under Rule 24(1), the licencing authority is sufficiently empowered by Rule 28 of the Central Rules, 1989, either to suspend the licence for a specified period or to revoke the same. However, the impugned notice vide Annexure-A issued by the R.T.O. is without jurisdiction and is liable to be quashed.

6. For the reasons aforesaid, the petition is allowed. The impugned notice No. R.T.O.-B(C).LD/2000-01, dated 4.5.2000 issued by Respondent No. 2 is quashed.