

(2008) 05 SC CK 0150

In the Supreme Court Of India

Case No : Writ Petition (Civil) No. 510 of 2005

Maninderjit Singh Bitta

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 08-05-2008

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 50
Motor Vehicles Act, 1988 — Section 109(3), 41(6), 64

Citation : (2008) 3 CLT 359 : (2008) 9 SCALE 204 : (2008) 7 SCC 328

Hon'ble Judges : Lokeshwar Singh Panta, J;C. K. Thakker, J;Arijit Pasayat, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

Arijit Pasayat, J.—This Writ Petition is purported to have been filed in Public Interest. The prayer essentially is implementation by the State and Union Territories of the judgment of this Court in Association of Registration Plates Vs. Union of India (UOI) and Others, . By the said judgment terms and conditions of notices inviting tenders from manufacturers for the purpose of implementing Section 41(6) of the Motor Vehicles Act, 1988 (in short the 'Act') and Rule 50 of the Motor Vehicles Rule, 1989 (in short the 'Rules') were considered. Grievance is made that though in the aforesaid judgment the norms were fixed and the desirability of having the High Security Registration Place (in short the 'HSRP') has been highlighted nothing concrete has been done. According to the petitioner, in order to curb the growing menace of crime and terrorist activities using motor vehicles as a tool, the Central government came out with a new scheme of HSRP. Accordingly, Rule 50 of the Rules was implemented by the Central Government in exercise of powers u/s 41(6) of the Act read with Section 64(d) of the Act by Notification dated 28.3.2001. Instead of old method of obtaining registration number from the RTO and getting the number plate made from open market, a new system was introduced regulating the issuance and fixing of the number plate. Subsequently, two more notifications dated 22.8.2001 and 16.10.2001 were issued to make the requirement of the scheme complete.

The dispute in the earlier decision related to the terms and conditions of Notices Inviting Tenders (NITs) for supply of HSRP for motor vehicles. The tenders had been issued by various State Governments on the basis of guidelines circulated by the Central Government for implementing the provisions of the Act and the newly amended rules. In paras 10, 11 & 12 it was noted as follows:

10. The main features of the high security registration plates as provided in Rule 50 and the Order of 2001 are as follows:

1. It provides for a solid aluminium plate.
2. The plate should be suitable for hot stamping and would be a reflective sheet.
3. The plate should bear the letters "IND" in blue colour.
4. It should have a chromium-based hologram which shall also be hot-stamped.
5. There would be a third registration mark which would be self-reflective being a chromium-based hologram sticker and which would be affixed on the windshield of the vehicle.
6. The plate on the rear shall be fastened with non-removable/ non-reusable snap-lock fitting system.

11. The abovementioned features to the high security registration plates have been insisted upon for the following reasons:

1. Hot chromium-based hologram would prevent counterfeiting.
2. The ingress letter "IND" on the plate would secure national identity and standardisation.
3. The laser-etched seven-digit code to be given by the manufacturer to each plate is with a view that there should be a sequential identification of individual registration plates across the country. This would act as a watermark and would not be erasable by any mechanical or technical process.
4. Snap-lock to be fitted on the rear portions of the vehicle would be tamper-proof. Any attempt to remove the plate would break it.
5. The reflective sheet of superior grade would be visible from a minimum of 200 metres.
6. The alphanumeral would be easily readable and identifiable.
7. On alphanumeral border, ingress letters "IND" would prevent painting and screen printing which would act as protection against counterfeiting.
8. The sticker to be affixed on the windshield would have seven-digit laser code containing the engine number and the chassis number. This is so designed as to be self- destructive upon removal.

12. After Rule 50 was amended and the New High Security Registration Plates

(Amendment) Order, 2001 was issued in purported exercise of power u/s 109(3) of the Act, the Ministry of Road Transport and Highways vide its letter dated 6-3-2002 circulated the minutes of the meeting of 4-3-2001 held between the representatives of all States and Union Territories on introduction of the new system of registration plates. A series of meetings were held by the Union with the States. Eventually, on 6-3-2002 the Union laid down guidelines for incorporating necessary conditions in the notices inviting tenders to be issued by the various States. In substance, the guidelines suggest as follows:

1. The tender document would specify whether the appointment of the vendor was for the whole State or for certain parts.
2. The tender document would specify the terms of the bank guarantee.
3. The tender document would require a report-back on certain aspects on "a periodic and regular basis".
4. The bidder must furnish proof of past experience/expertise in this area or proof of the same with a collaborator.

2. This Court after analyzing the various provisions and the intent of the prescription dismissed the writ petitions filed directly before this Court and transferred from the High Courts.

3. It is contended by the petitioner that the scheme as contained in the Notifications dated 22.8.2001 and 16.10.2001 are as follows:

(i) It prescribes the high security technical features that the plates must contain. These features are such that the plates cannot be duplicated, removed or replaced. It also ensures that the identification and tracking of the vehicle is certain and easier.

(ii) It is mandatory that the intending manufacturer must obtain a Type Approval Certificate (TAC) from one of the notified agencies. The companies submit samples which are certified to be technically complying with the requirements of Rule 50.

(iii) The implementing agency is the State through its RTO. The RTO has to issue the number as well as the plate which shall be fixed in the premises of RTO by the selected manufacturer.

4. It is pointed out that the primary grounds for rejection of the stand of the writ petitioners in the aforesaid case are as follows:

(a) The imposition of strict conditions is in furtherance of the object sought to be achieved.

(b) There is no scope for trial and error. The State has the onerous duty to ensure that it eliminates 'fly by night' operators who claim that they can deliver but have neither experience nor financial capacity to deliver. They are there to somehow get the work.

(c) Till date the technology to manufacture the plates has not developed in India. Thus there cannot be a pure Indian Manufacturer without a JV partner.

(d) The conditions are fair and reasonable. They are not arbitrary and are free from malafides.

(e) The fact that there are few manufacturers who can pass the eligibility test does not mean that monopoly is created in their favour or that the conditions are tailor made.

(f) The term of 15 year contract and selection of one manufacturer for the whole State was also held to be non arbitrary and reasonable. The argument about creation of monopoly was also rejected.

5. Grievance of the petitioner and the intervener i.e. All India Motor Vehicles Security Association is that subsequent to the judgment the scheme of HSRP is yet not implemented in any State except the State of Meghalaya and other States are still repeating the processing of the tender. The prayer therefore is that the purpose of introducing the scheme should be fulfilled letter and spirit. The objective being public safety and security there should not be any lethargy. It is pointed out that most of the States floated the tenders and thereafter without any reason the process has been slowed down. From the details filed, the various States and the Union Territories can be categorised as follows:

CATEGORY

STATUS OF STATE WISE N.I.Ts. AND POSITION VIS-A-VIS JUDGMENT OF THIS HON'BLE COURT IN Association of Registration Plates Vs. Union of India (UOI) and Others,

CATEGORY- 1

States who had defended the Tender conditions before this Hon'ble Court and cancelled the tender after 30.11.2004, the date of judgment in Association of Registration Plates Vs. Union of India (UOI) and Others, .

1. Jammu & Kashmir

2. Punjab

3. Haryana

4. Maharashtra

5. Pondicherry

CATEGORY-II

States who had defended the Tender conditions before this Hon'ble Court and thereafter re-floated fresh Tender in consonance with the judgment of the Hon'ble Court in 2005(1) SCC 679.

1. Kerala
2. Rajasthan
3. Dadra N. Haveli
4. Daman & Diu

CATEGORY III

States who had defended the Tender conditions before this Hon'ble Court and subsequently re-floated Tender without the essential conditions and what was defended before this Hon'ble Court.

1. West Bengal
2. Tamil Nadu

CATEGORY - IV

States who have issued Tender after the judgment of this Hon'ble Court in 2005(1) SCC 679 in consonance with the Tender conditions upheld in the said judgment.

1. Karnataka
2. Goa
3. Mizoram
4. Manipur

CATEGORY-V

States who had defended the Essential Tender conditions before this Hon'ble Court and subsequently awarded the same Tender.

1. Nagaland
2. Meghalaya

CATEGORY VI

States who have issued the Tender after 30.11.2004 without the essential tender conditions.

1. Assam
2. Tripura
3. Andaman & Nicobar

CATEGORY VII

The state of Uttar Pradesh who had issued the notice inviting Tender on 27.4.2003 without the essential conditions and the Letter of Intent though issued

on 07.5.2003 the contract is yet to be signed. State of Uttar Pradesh be directed to issue fresh Tender with the essential conditions.

6. It appears that some of the States have not yet floated the tenders and in some cases after the tenders have been floated there appears to be no noticeable progress.

7. The Union of India and some of the States have questioned the locus standi of the petitioner to file the petition and have stated that this is not a Public Interest Litigation and some of the business concerns who will be benefited from the tenders have put up the petitioner as a front to add legitimacy to the cause. It is stated that ultimately it is the business interest which is lurking in the background and in commercial matters this Court should not interfere.

8. Without going into the question as to whether the petition is a bonafide Public Interest Petition, we feel it would be in the interest of all concerned if the States and the Union Territories take definite decision as to whether there is need for giving effect to the amended Rule 50 and the Scheme of HSRP and the modalities to be followed.

9. Needless to say the scheme appears to have been introduced keeping in view the public safety and security of the citizens. Let necessary decisions be taken, if not already taken, within a period of six months from today. While taking the decision the aspects highlighted by this Court in the earlier decision needless to say shall be kept in view.

10. The writ petition is accordingly disposed of alongwith the I.A. for intervention without any order as to costs.