

(1986) 09 KAR CK 0018
In the Karnataka High Court
Case No : Writ Petition 17678 of 1986

Mohammed Ilyas

APPELLANT

Vs

Regional Transport Officer and Registering Authority and
Another

RESPONDENT

Date of Decision : 30-09-1986

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Motor Vehicles Act, 1939 — Section 33, 33 (1) (b)

Citation : AIR 1987 Kar 137 : (1987) 1 KarLJ 123

Hon'ble Judges : M.P. Chandrakantaraj URS, J

Bench : Single Bench

Advocate : S.V. Krishnaswamy, for the Appellant;

Judgement

1. Petitioner is the owner of motor vehicle bearing Registration Mark CAM 7799. It is a heavy passenger vehicle registered within the jurisdiction of the first respondent-Regional Transport Officer and Registering Authority, Bangalore Central, Bangalore.

2. Petitioner was issued with a show cause notice under sub-sec. I (b) of S. 33 of the Motor Vehicles Act, calling upon him to explain why his registration should not be suspended for having used his vehicle as stage carriage when it was only covered with a special permit for carrying a group of passengers on an express or implied contract as evidenced by the Check Report of the Assistant Engineer, (Motor Vehicles), State Transport Authority, Chepauk, at Madras. Having regard to the previous offences of the same kind committed by the petitioner, the first respondent registering authority suspended the registration for a period of 15days. On appeal, the findings were confirmed but the period of suspension was reduced to 10 days by the second respondent-Deputy Commissioner for Transport, Bangalore Division, Bangalore. Aggrieved by the same, this petition under Arts. 226 and 227 of the Constitution is filed in this Court inter alia contending that for an offence committed within the jurisdiction of a Registering

authority in Tamil Nadu. The registering in Karnataka cannot assume jurisdiction on the report of an Officer of the Motor Vehicles Department of Tamil Nadu having regard to the language of S. 33(I) of the Act. I do not find that there is force in the contention.

3. Section 33(I) reads as follows: -

"33. Suspension of registration. (1) If any registering authority or other prescribed authority has reason to believe that any motor vehicle within its jurisdiction

(a) Is in such a condition that its use in a public place would constitute a danger to the public, or that fails to comply with the requirements of Chapter V or of the rules made there under. Or

(b) Has been, or is being used for hire or reward without a valid permit for being used as such, the authority may, after giving the owner an opportunity of making any representation he may wish to make (by sending to the owner a notice by registered post acknowledgment due at his address entered in the certificate of registration for reasons to be recorded in writing, suspend the certificate of registration of the vehicle

(i) In any case falling under Cl. (a) until the defects are remedied to its satisfaction; and

(ii) In any case falling under Cl. (b), for a period not exceeding four months."

Any registering authority occurring in the Section denotes all persons or officers who are designated to be registering authority under the Act. They can take action while the vehicles within their jurisdiction violate. The conditions of the permit or contravenes the provisions contained in the S.33 of the Act.

4. Sri Krishnaswamy drew my attention to the decision of this Court in the case of *Siddagowda v. Divisional Commissioner, Mysore* in Writ Appeal Nos. 1443 and 1531 of 1982 disposed of on 28-7-1982, the digest of which is reported in Short Note No. 68 in (1982) 2 Kar LJ 31. The Division Bench had occasion in that case to consider the scope and ambit of S. 8(I) of the Karnataka Village Panchayats and Local Boards Act, 1959. The said section speaks of the satisfaction of the Deputy Commissioner before he appoints a Committee to act as the Village Panchayat in certain circumstances. Therefore, the Division Bench took the firm and correct view that expediency of nominating the administrative "authority under S. 8(I) should be only on the satisfaction of the Deputy Commissioner and if there is no satisfaction of the Deputy Commissioner, then it was held, there would be abdication of power which is the one exercised without jurisdiction. The language of sub-sec. (1) Of S. 33 is not similar to the language of subsec. (1) Of S. 8 of the Village Panchayat and Local Boards Act. All that is required here is the registering authority in whose jurisdiction the vehicle lies must have reason to believe that an offence has been committed that is envisaged under S. 33(I)(b) of the Act. Nothing more is required. It need not be on account of the personal

knowledge of the Registering Authority which generally is on the information received by him by way of Check Report from his subordinates who are authorised to make the check. In the instant case, the Check Report came from Tamilnadu is no ground to come to the conclusion that the first respondent ceased to have jurisdiction I to initiate the action taken by him.

5. In this view of the matter and as there is no complaint in the procedure followed, petition is liable to be rejected. Accordingly, this petition is rejected.

6. Petition dismissed.