
(2012) 02 KL CK 0039
In the High Court Of Kerala
Case No : WA.No. 1490 of 2011

Muhammed

APPELLANT

Vs

Joint Regional Transport Officer and Others

RESPONDENT

Date of Decision : 09-02-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 132, 177, 184, 185, 188

Citation : (2012) 2 KarLJ 75 : (2012) 2 KLJ 75

Hon'ble Judges : P.R. Ramachandra Menon, J;Manjula Chellur, J

Bench : Division Bench

Advocate : V.K. Mohammed Yousuf, for the Appellant; K. Meera (GP), for the Respondent

Final Decision : Allowed

Judgement

Manjula Chellur. Ag.C.J.

1. These Writ Appeals and Writ Petitions pertains to controversy of fancy/particular registration numbers to the vehicles of appellants and petitioners respectively. Subsequent to amendment to Rule 95 of the Kerala Motor Vehicles Rules, 1989 (for short, "the Rules") which come into force with effect from 1.3.2011, several litigations are filed before this Court. In the above two appeals, challenge was to the rejection of the respondent authorities in allotting fancy/particular number of applicant's choice. They had approached the learned Single Judge and the Writ Petitions came to be dismissed. As the Writ Appeals were pending before the Division Bench, all the Writ Petitions involving similar controversy were clubbed with the above appeals. The table below would indicate which appellants/petitioners had sought for which fancy/particular number which came to be rejected by the respondent transport authorities:

CASE No.

FANCY/ PARTICULAR

NUMBER SOUGHT FOR
TEMP. REGISTRATION NUMBER
VEHICLE MODEL
WA. 1490/2011
KL-50-B/313
KL-53-E-TEMP-7638
TOYOTAFORTUNER3.0L 4WDMT
WA.1526/2011
KL-18/H-333
KL-39-DTEMP-694
BMW CAR 520 d
WP(C). 16353/11
KL-54-C-111
KL-11-X-TEMP-7980
FORD FIESTAMOTORCAR
WP(C).19516/11
KL-18-H6
KL-13-H-TEMP-5142
MARUTI SWIFT DZIRE MOTORCAR
WP(C).20160/11
WP(C).20182/11
KL-42/E-6111 KL-5-AD-5
KL-7-AL-TEMP-952 KL-7-AL-TEMP-6343
MARUTI ALTO CAR PORSCHE E2 CAYENNE DIESEL CAR
WP(C).23066/11
KL-BS-1771
KL-7-AL-TEMP-3849
VOLVO S16, D52.5L DIESELCAR
WP(C).24760/11
KL-53-C-9999

KL-39-D-TEMP-865
AUDI Q-7 SPORTS UTILITY VEHICLE CAR
WP(C).26172/11
KL-16/H-500
TATAINDICA VISTA VX MOTORCAR
WP(C).26464/11
KL-13-X-313
KL-13-J-TEMP-4221
TOYOTA FORTUNER MOTORCAR
WP(C).26350/11
KL-19-B-5864 OR KL-19-B-5764
KL-39-D-TEMP-2335
MBWPP-17 MOTORCAR
WP(C).26933/11
KL-13-X-369
KL-11-AA-TEMP-292
MARUTI SWIFT DEZIRE VDI
WP(C).29248/11
KL-46-F-6
KL-39-D-TEMP-4860
FIAT LINEAMOTOR CAR
WP(C).30266/11
KL-5-AD-777
KL-39-D-TEMP-122
MERCEDEZBENZ DIESELCAR

2. In all the above cases, the main grievance is with regard to allotment of fancy/ chosen number. In some cases, when owners of the vehicles approached the registering authorities, they were asked to apply later, on the ground, the fancy mark sought by the respective applicants had not yet reached the allotment. Later, when they approached the registering authorities, though they were ready to tender required fee notified by the authorities, but they came to be rejected on the ground that none of the vehicles had valid temporary registration.

According to the appellants/petitioners, having notified rules of allotment in order to augment the revenue of the State by imposing unreasonable conditions, the authorities are virtually not giving effect to the scheme of allotment of fancy/ desired numbers and the very object and purpose of amendment brought to the said Rules is frustrated.

3. According to the learned counsel appearing for the appellants and the petitioners, though provision of allotting the notified fancy/chosen numbers to the vehicles belonging to the various departments of the Government is provided, it is nothing, but a loss to the State exchequer. Under legitimate expectation of getting the fancy number of their choice, they have to keep their vehicles unused and non receipt of money by the respondents has led to hardship and financial loss to them. It was further stressed upon the point why Rule 95 of the Rules came to be substituted with the present Rule 95 with effect from 1.3.2011, as it contemplates that reservation of fancy mark could be given only to the registered owners of the motor vehicles and this was envisaged to ensure that genuine applicants alone would get the fancy numbers so as to prevent the touts and agents from entering fray. They have approached the Court contending, if the substitution of Rule 95 was with the object of discouraging ill- motivated persons to enter the fray, when good number of documents other than the valid temporary registration confirm the ownership of the vehicle of the applicant, there was no justification for the authorities to reject the same. According to the learned counsel representing the appellants, the learned Single Judge, without referring to the above situation, has proceeded to dismiss the Writ Petitions opining that the applications have to be within the accepted procedure indicated in the Rules and the same is erroneous. It was further contended, even if agent is allowed to reserve the fancy numbers, once temporary registration is issued to him, the same has to be considered as valid registration till the permanent registration number is allotted In different Writ Petitions they have also come out with factual difficulties faced by them to approach the transport authorities for allotment of desired fancy numbers within the validity of temporary registration. However, those facts may not be of much relevance as the question raised before us requires to see whether Rule 95 contemplating valid temporary registration is justified and reasonable.

4. A common counter affidavit in all the Writ Petitions, including the Writ Petitions pertaining to the above two appeals was filed by the respondents. In brief, the contents are narrated as under: By virtue of G.O(P).No. 03/2011/Tran dated 25.1.2011 published vide SRO No. 77/2011 was brought as amendment to Rule 95 of the Rules. One of the conditions for reserving fancy/desired registration number is valid temporary registration certificate. This came to be insisted to ensure only genuine applicants approach the authorities for reservation of fancy registration number as prior to the amendment or substitution, the Rule permitted any person without even owning a motor vehicle or without any intention to purchase a vehicle to submit an application for reserving a fancy registration number with a view to participate in the auction.

This led to undue monetary gain being made from the genuine applicants resulting in huge loss of revenue to the State exchequer. When several complaints from the general public received by the Government, indicating the difficulties faced by the purchasers, in order to ensure that only genuine purchasers would submit applications for reservation of registration number, after due deliberation and discussion, Rule 95 of the Rules came to be amended with the sole object of stopping fraudulent motive adopted by several persons. According to the respondent authorities, if an applicant intends to reserve a fancy number or a particular number, he has to do the same from any number within the range of 1500 numbers from the last number allotted on the previous week before the expiry of the temporary registration. The only alternative available to them is to postpone delivery of the new vehicle if the number so desired falls beyond the range of 1500 and wait until such number comes within the range of 1500 numbers to be allotted.

5. They further contend that sub-section (2) of Section 43 envisages maximum period of one month validity of temporary registration. It does not lead to conclusion that period of temporary registration should be for a month. It can only be extended for a maximum period of one month, but not beyond one month. They stress upon the fact that eligible applicant for getting registration as contemplated u/s 41 and also concerned Rules pertaining to fancy registration number must comply with the prescription contemplated under Rule 95 of the Rules and also relevant circulars issued from time to time. The method adopted by the authorities clearly indicates what numbers are available at a particular office in that week. If the numbers desired by the applicants are not within the unit of 1500 numbers as contemplated under the Rules, the authorities cannot be blamed as they have to wait till the required number comes for allotment. The only course open to them is, they should not take delivery of the vehicle till the possibility of such number coming within the period of validity of temporary registration. This procedure was adopted only to ensure genuine applicants to approach for reservation of fancy or particular numbers.

6. According to the respondent authorities, the grace period for remitting tax in respect of non-transport vehicle is 14 days. Therefore, the purchaser of a non-transport vehicle having temporary registration should remit one time tax within 14 days and if validity of temporary registration is postponed beyond 14 days, the owners will be liable to pay fine. In order to avoid such a situation, temporary registration validity is limited to 14 days, though it could be extended upto one month. Even otherwise, the temporary registration was provided only to enable the owner of a vehicle to transport the vehicle from the place of purchase for registration before the concerned authority, within whose jurisdiction the applicant resides. In the State of Kerala, it would not take more than 14 days from one end to other end for a vehicle to reach. Therefore, as against previous seven days, the validity of temporary registration is extended to 14 days. In certain cases, depending upon the situation, the validity of one month is also given. Even then they may not be able to get the number they

desire on account of several reasons, including the reason that the number desired may not reach within the period of validity of temporary registration certificate.

7. With the abovementioned stand of the parties to the litigation before us, we have to see what exactly the Statute envisages and the Rules concerned prescribe. Reading of several provisions of the Motor Vehicles Act, 1988, Central Motor Vehicles Rules, 1989 and the Kerala Motor Vehicles Rules, 1989, it is crystal clear that no person shall drive any motor vehicle in public place without having a registration certificate in accordance with the Statute provided u/s 39. Section 40 of the Motor Vehicles Act, 1988 (for short, "the Act") provides where registration is to be made. Section 41 refers to how registration is to be made. Section 43 refers to temporary registration. Sections 39, 40, 41 and 43 of the Act read as follows:

Section 39. Necessity for registration:- No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner.

Sec.40, Registration, where to be made:- Subject to the provisions of Section 42, Section 43 and Section 60, every owner of a motor vehicle shall cause the vehicle to be registered by a registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept.

Sec. 41. Registration, how to be made:-

(1) An application by or on behalf of the owner of a motor vehicle for registration shall be in such form and shall be accompanied by such documents, particulars and information and shall be made within such period as may be prescribed by the Central Government.

Provided that where a motor vehicle is jointly owned by more persons than one, the application shall be made by one of them on behalf of all the owners and such applicant shall be deemed to be the owner of the motor vehicle for the purposes of this Act.

(2) An application referred to in sub-section (1) shall be accompanied by such fee as may be prescribed by the Central Government.

(3) The registering authority shall issue to the owner of a motor vehicle registered by it a certificate of registration in such form and containing such particulars and information and in such manner as may be prescribed by the Central Government.

(4) In addition to the other particulars required to be included in the certificate of registration, it shall also specify the type of the motor vehicle, being a type as

the Central Government may, having regard to the design construction and use of the motor vehicle by notification in the Official Gazette, specify.

(5) The registering authority shall enter the particulars of the certificate referred to in sub- section (3) in a register to be maintained in such form and manner as may be prescribed by the Central Government.

(6) The registering authority shall assign to the vehicle, for display thereon, a distinguishing mark (in this Act referred to as the registration mark) consisting of one of the groups of such of those letters and followed by such letters and figures as are allotted to the State by the Central Government from time to time by notification in the Official Gazette and displayed and shown on the motor vehicle in such form and in such manner as may be prescribed by the Central Government.

(7) A certificate of registration issued under sub-section(3), whether before or after the commencement of this Act, in respect of a motor vehicle, other than a transport vehicle, shall, subject to the provisions contained in this Act, be valid only for a period of fifteen years from the date of issue of such certificate and shall be renewable.

(8) An application by or on behalf of the owner of a motor vehicle, other than a transport vehicle, for the renewal of a certificate of registration shall be made within such period and in such form, containing such particulars and information as may be prescribed by the Central Government.

(9) An application referred to in sub-section (8) shall be accompanied by such fee as may be prescribed by the Central Government.

(10) Subject to the provisions of Section 56, the registering authority may, on receipt of an application under sub-section(8) renew the certificate of registration for a period of five years and intimate the fact to the original registering authority, if it is not the original registering authority.

(11) If the owner fails to make an application under sub-section(1), or, as the case may be, under sub-section(8) within the period prescribed, the registering authority may having regard to the circumstances of the case require the owner to pay, in lieu of any action that may be taken against him u/s 177, such amount not exceeding one hundred rupees as may be prescribed under sub- section (13)

Provided that action u/s 177 shall be taken against the owner where the owner fails to pay the said amount;

(12) Where the owner has paid the amount under sub-section (11) no action shall be taken against him u/s 177.

(13) For the purpose of sub-section(11), the State Government may prescribe different amounts having regard to the period of delay on the part of the owner in making an application under sub- section(1) or sub-section(8).

(14) An application for the issue of a duplicate certificate of registration shall be made to the last registering authority in such form, containing such particulars and information along with such fee as may be prescribed by the Central Government.

Sec. 43. Temporary registration:-(1) Notwithstanding anything contained in Section 40, the owner of a motor vehicle may apply to any registering authority or other prescribed authority to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark.

(2) A registration made under this section shall be valid only for a period not exceeding one month and shall not be renewable.

Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted with a body or any unforeseen circumstances beyond the control of the owner the period may, on payment of such fees, if any, as may be prescribed be extended by such further period or periods as the registering authority or other prescribed authority as the case may be, may allow.

(3) In a case where the motor vehicle is held under hire-purchase agreement, lease or hypothecation, the registering authority or other prescribed authority shall issue a temporary certificate of registration of such vehicle, which shall incorporate legibly and prominently the full name and address of the person with whom such agreement has been entered into by the owner.

8. The defence of the respondent authorities is that temporary registration is envisaged in order to allow the owner of the vehicle or any authorised person to produce the vehicle before the registering authority within whose jurisdiction the vehicle would be kept. Section 44 of the Act requires production of vehicle at the time of registration. This is to ascertain whether such vehicle is in existence and whether the details given in the application for registration would tally with the vehicle for which registration certificate is sought for. Section 44 of the Act reads as follows:

Sec.44. Production of vehicle at the time of registration:- The registering authority, shall before proceeding to register a motor vehicle or renew the certificate of registration in respect of a motor vehicle, other than a transport vehicle, require the person applying for registration of the vehicle or, as the case may be, for renewing the certificate of registration to produce the vehicle either before itself or such authority as the State Government may by order appoint in order that the registering authority may satisfy itself that the particulars contained in the application are true and that the vehicle complies with the requirements of this Act and of the rules made thereunder.

9. Section 177 is a general penal provision, which provides punishment for

several offences, which reads as follows:

Sec. 177. General provision for punishment of offences:- Whoever contravenes any provision of this Act or of any rule, regulation or notification made thereunder shall, if no penalty is provided for the offence be punishable for the first offence with fine which may extend to one hundred rupees, and for any second or subsequent offence with fine which may extend to three hundred rupees.

10. So far as Section 192 is concerned, it is with reference to contravention of Section 39, i.e., what happens if vehicle is used without necessary registration certificate. Section 192 of the Act reads as follows:

Sec. 192. Using vehicle without registration: (1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of Section 39 shall be punishable for the first offence with a fine which may extend to five thousand rupees but shall not be less than two thousand rupees for a second or subsequent offence with imprisonment which may extend to one year or with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees or with both.

Provided that the Court may for reasons to be recorded impose a lesser punishment (2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injuries or for the transport of food or materials to relieve distress or of medical supplies for a like purpose.

Provide that the person using the vehicle reports about the same to the Regional Transport Authority within seven days from the date of such use.

(3) The Court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1) may set aside or vary any order made by the Court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made.

11. Reading of various provisions of the Act as stated above definitely indicate why registration is necessary and how such registration has to be done and what are the benefits or exemptions given to the owners of the vehicles to bring vehicles from different places for the purpose of registration of a vehicle before the registering authority having jurisdiction to register and also the penal provision including imprisonment, if vehicle is used on public road without valid registration certificate.

12. Rules 33, 37, 41, 42, 47 and 164 of the Central Motor Vehicles Rules, 1989 read as follows:

Rule 33. Condition for exemption from registration:- For the purpose of the proviso to Section 39, a motor vehicle in the possession of a dealer shall be exempt from the necessity of registration subject to the condition that he obtains

a trade certificate from the registering authority having jurisdiction in the area in which the dealer has his place of business in accordance with the provisions of this Chapter.

Rule 37. Period of validity:- A trade certificate granted or renewed under Rule 35 shall be in force for a period of twelve months from the date of issue or renewal thereof and shall be effective throughout India

Rule 41. Purposes for which motor vehicle with trade certificate may be used:-

The holder of a trade certificate shall not use any vehicles in a public place under that certificate for any purpose other than the following: -

- (a) for test, by or on behalf of the holder of a trade certificate during the course of, or after completion of construction or repair, or
- (b) for proceeding to or returning from a weigh bridge for or after weighing, or to and from any place for its registration, or
- (c) for a reasonable trial or demonstration by or for the benefit of a prospective purchaser and for proceeding to or returning from the place where such person intends to keep it, or
- (d) for proceeding to or returning" from the premises of the dealer or of the purchaser or of any other dealer for the purpose of delivery; or
- (e) for proceeding to or returning from a workshop with the objective of fitting a body to the vehicle or painting or for repairs; or
- (f) for proceeding to and returning from airport, railway station wharf for or after being transported; or
- (g) for proceeding to or returning from an exhibition of motor vehicles or any place at which the vehicle is to be or has been offered for sale; or
- (h) for removing the vehicle after it has been taken possession of by or on behalf of the financier due to any default on the part of the other party under the provisions of an agreement of hire- purchase, lease or hypothecation.

Rule 42. Delivery of vehicle subject to registration:- No holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent.

Rule 47. Application for registration of motor vehicles:- (1) An application for registration of a motor vehicle shall be made in Form 20 to the registering authority within a period of seven days from the date of taking delivery of such vehicle, excluding the period of journey and shall be accompanied by-

- (a) sale certificate in Form 21;
- (b) valid insurance certificate;

(c) copy of the proceedings of the State Transport Authority or Transport Commissioner or such other authorities as may be prescribed by the State Government for the purpose of approval of the design in the case of a trailer or a semi trailer

(d) original sale certificate from the concerned authorities in Form 21 in the case of ex- army vehicles;

(e) proof of address by way of any one of the documents referred to in Rule 4;

(f) temporary registration, if any;

(g) road-worthiness certificate in Form 22 from the manufacturers, Form 22A from the body- builders;

(h) custom's clearance certificate in the case of imported vehicles along with the licence and bond, if any

Rule 164. Offences for the purpose of Section 208- The offences for the purpose of sub- section (1) of Section 208 shall be -

(a) Driving during the period of disqualification (Section 23)

(b) Failure to stop the vehicle when it is involved in an accident (Section 132)

(c) Obtaining or applying for a driving licence without giving particulars of endorsement (Section 182)

(d) Driving dangerously (Section 184)

(e) Driving while under the influence of drinks or drugs (Section 185)

(f) Abetment of an offence u/s 184 or Section 185 or Section 188;

(g) Taking part in unauthorised race or trial of speed of any kind (Section 189)

(h) Altering a driving licence or using an altered licence

(i) Any other offence punishable with imprisonment in the commission of which a motor vehicle was used.

13. The Central Motor Vehicles Rules referred to above give exemption from registration under certain circumstances, i.e., a dealer, who is in possession of a vehicle, but, however, to get such exemption he must have a trade certificate from the registering authority, who has jurisdiction over the area, where the business concerned of the dealer is situated. Rule 37 of the Central Motor Vehicles Rules, 1989 refers to period of validity. The purposes for which trade certificate could be used are envisaged under Rule 41. Rule 42 is a mandate on the holder of a trade certificate to deliver a motor vehicle to a purchaser, i.e., only to a person having registration certificate whether permanent or temporary. Rule 47 refers to application form and the details to be mentioned for registration of motor vehicles. This is with reference to permanent registration number. Such

application shall be accompanied by several documents apart from temporary registration, if any. The emphasis is on Rule 47(1)(f), because, to have a permanent registration certificate, there is no requirement of temporary registration, because the owner has to produce temporary registration, if any. Therefore, it is optional. It does not even refer to valid temporary registration. Rule 164 indicates what would amount to offence for the purpose of Section 208.

14. Then coming to the Kerala Motor Vehicles Rules, 1989, rules 94, 95 and 96 are very relevant, which read as under:

Rule 94. Temporary Registration:--(1) Delegation of powers :-- Subject to the provisions of sub-section (1) of Section 43 of the Act and rules (2) to (5) temporary certificate of registration may be issued by persons authorised for the purpose by the Registering Authority.

(2) Application:- An application for temporary registration shall be in Form 20 appended to the Central Motor Vehicles Rules, 1989 and clearly marked "Temporary

(3) Form:--A temporary certificate of registration shall be in Form "CR. TEM".

(4) Intimation to Registering Authority concerned :- The Authority granting a temporary certificate of registration shall in all cases forward a copy in Form "CR. TEM" to the Registering Authority in whose area the vehicle is to be ordinarily kept;

(5) Assignment of mark:--The Authority granting a temporary certificate of registration shall assign a temporary registration mark to the vehicle and the owner shall cause the said mark to be affixed to the front and rear of the motor vehicle in the manner prescribed for registration marks by the Central Government

(6) Fee:--The fees for issue of temporary certificate of registration and for every extension of temporary certificate of registration as provided for in the proviso to sub-section (2) of

Section 43 of the Act, shall be fifty rupees.

Rule 95. Reservation of fancy registration mark:-(1) Reservation of fancy registration mark shall be made for the registration of a new motor vehicle under Section 39 of the Act, on an application made to the registering authority by the owner of a motor vehicle.

(2) The Government may notify any further registration marks as reserved under sub-rule (1) as notified in the annexure appended to the rules save those in KL-15 series.

(3) Any registration mark other than those notified under sub-rule (2) may also be reserved under sub-rule (1), if applied for, by any person.

(4) Reservation of a registration mark may be made from among the unallotted numbers in a unit as may be assigned to each Regional Transport Office or Sub Regional Transport Office for a period of one week each, by the Transport Commissioner having regard to the quantum of registration in each such office and also for unallotted numbers pending from previous weeks.

(5) An application under sub-rule (1) shall be made in Form RFRMA appended to these rules and it shall be accompanied by the following:-

(i) TR 5 receipt/Computer generated cash receipt for the fee paid as specified in the annexure to these rules,

(ii) Valid Temporary Registration Certificate and a true copy thereof.

(iii) Proof of remittance of tax (in the case of non-transport vehicles only)

(iv) Proof of the address of the applicant as laid down in rule 4 of the Central Motor Vehicles Rules.

(v) A sealed cover superscripting thereon the words "TENDER FOR RESERVATION OF FANCY REGISTRATION MARK KL....." containing an offer letter quoting the amount, if any, in addition to the reservation fee and a demand draft for an amount not less than half the amount so quoted which shall be drawn in favour of the Regional transport Officer or Joint Regional Transport Officer, as the case may be.

Provided that an application for advance reservation of fancy registration marks may also be made "online" in such manner as may be specified by the Transport Commissioner in that behalf. Provided further that a person may apply for reservation of more than one fancy Registration mark simultaneously by remitting the required fee under clause (i) and submitting the receipt thereof along with additional tenders as provided in clause (v) of sub-rule (5)

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XXXXXXXXXXXXX"

Rule 96. Inspection of Vehicle prior to Registration--(1) Inspecting Officer--The Registering Authority, or such authority as the Government may by order appointed shall inspect the vehicle as required by Section 44 of the Act.

(2) Production of Vehicle for inspection :-- The vehicle shall be produced for inspection along with the required documents for registration, before the inspecting officer, for a comparative scrutiny of the particulars contained in the application with the physical features of the vehicle and for ascertaining its fitness for use in public place.

(3) Report of Inspecting Officer:--The inspecting officer after making modifications deemed necessary in the particulars contained in the application, shall certify therein regarding the correctness of the entries and the fitness of the vehicle.

Provided that in the case of a transport vehicle or for any other vehicle of which the body is not factory-built or a stereo-typed pattern previously approved by the Registering Authority, he shall prepare and issue a measurement certificate in Form "MC" and a sketch showing therein the seating arrangements, dimensions and other relevant particulars under Chapter VII of these rules. The inspecting officer shall simultaneously forward a copy each of the measurement certificate and sketch to the concerned Registering Authority also.

15. Rule 94 relates to procedure who is entitled to get temporary certificate and how an application has to be made and how an intimation has to be sent to the registering authority concerned, i.e., sub-rule (4) of Rule 94 creates an obligation on the authority granting a temporary certificate of registration in every case to forward copy in the form known as "CR. TEM" to the registering authority, in whose area the vehicle is to be ordinarily kept. This would mean, much prior to the vehicle brought for permanent registration certificate before the registering authority having jurisdiction, i.e., the authority within whose jurisdiction or area the vehicle is to be ordinarily kept, would come to know the details of purchaser, who has temporary registration of the vehicle and from where it was purchased and which authority has issued temporary registration certificate. Coming to important Rule 95, this is the Rule we are concerned especially sub-rule (5) of Rule 95, which envisages one of the conditions of valid temporary registration certificate and true copy thereof for allotment of fancy number or a particular number. Rule 96 refers to inspection of vehicle prior to registration, which refers to inspecting officers, production of vehicle for inspection, report of inspecting officer and the details which the inspecting officer should forward to the concerned registering authority.

16. Rule 102 refers to compounding of offences by paying fine for various offences referred to in the Section, which reads as follows:

Rule 102. Compounding of offences:-- The amount payable in lieu of any action that may be taken u/s 177 read with sub-section (13) of Section 41 or sub-section(7) of Section 47 or sub-section (4) of Section 49 or sub-section(5) of section 50, as the case may be, against the owner of the motor vehicle or any other person concerned, as the case may be, shall be as shown below:

Period of Delay

Amount

(a) In case the period of delay does not exceed three months

Transport vehicles

Non-transport vehicles

Rs. 75

Rs. 50

(b) in case the period of delay exceeds three months but does not exceed six months

Rs. 100

Rs. 75

(c) in case the period of delay exceeds six months

Rs. 100

Rs. 100

17. With the above Statute and the Rules, one has to see whether there is any purpose to produce valid temporary registration certificate for obtaining a fancy or a particular number. In response to our direction, Transport Commissioner appeared in person and explained why amendment to Rule 95 was brought in. The transport authority's stand is that to put an end to the undesired and growing evil of touts and other third parties making merry at the cost of public resulting in loss to the State exchequer, they brought this amendment by substituting earlier Rule 95 with the present Rule 95 as stated above. We have already discussed why a temporary registration certificate is required. As a matter of fact, in none of the Provisions of the Act, for securing a permanent registration certificate, requirement of having a valid temporary registration certificate is provided. It would only lead to conclusion that there is no requirement of having a valid temporary registration for the purpose of getting a permanent registration certificate. In that view of the matter, the temporary registration certificate is issued only to accommodate the purchaser of a vehicle to transport the vehicle from place to place, if the place of purchase is different from the place of registration of the vehicle. Before registering authority having jurisdiction over the area, the production of temporary registration certificate itself would be enough for registration of a vehicle. Therefore, in the case of registration of vehicle for permanent certificate, there is no need to have a "valid" temporary registration. The allotment of fancy number or a particular number is an exception to the normal procedure for registration of the vehicle for permanent registration certificate. That being the position, when there is no mandate to have a valid temporary registration to have a permanent registration certificate, we do not understand why the requirement of valid temporary registration should be insisted upon to have fancy number or a particular desired number by the applicant. Therefore, though there is justification in the stand of the transport authorities that validity of temporary registration normally should be 14 days, in view of the grace period contemplated for tendering one time tax, but so far as the requirement of production of valid temporary registration certificate by the owner seeking fancy number to avoid middlemen to make unlawful gain at the cost of the State, we cannot accept the stand of the transport authorities that it should be valid temporary registration. If valid temporary registration certificate was introduced to curb the menace of persons approaching without having even owning a motor vehicle or without having any

intention to purchase a vehicle by submitting an application for reserving registration number and was to encourage genuine applicants to reserve the registration number so as to augment the income of the Government, by deleting the word "valid", would it come in the way of achieving the purpose and object of the amendment of the Rule. The temporary registration certificate even if expired would indicate who is the owner, which is the vehicle, details of the vehicle, from where it was purchased and who was the authority, who gave the temporary registration. With these details and also other mandate, which requires temporary registering authority to forward copy of the temporary registration to the registering authority having jurisdiction over the area in which the vehicle is ordinarily kept, the maximum safeguard or security intended by the substitution of Section 95 could be achieved. Therefore, we are of the opinion, the word "valid" in sub-clause (ii) of sub-rule (5) of Rule 95 deserves to be struck down.

Accordingly, the Writ Appeals are allowed in part setting aside judgment of the learned Single Judge. All the Writ Petitions, including the Writ Petitions pertaining to Writ Appeals are allowed in part. The word "valid" in clause (ii) of sub-Rule (5) of Rule 95 of the Kerala Motor Vehicles Rules, 1989 is struck down. Consequently, the respondent authorities are directed to consider the allotment of fancy number or a particular number in accordance with the procedure in the light of above observations.

No order as to costs.