

(1992) 11 KL CK 0045
In the High Court Of Kerala
Case No : O.P. No. 14294 of 1992

P.K. Padmanabhan and Another

APPELLANT

Vs

Secy. R.T.A. and Another

RESPONDENT

Date of Decision : 19-11-1992

Acts Referred:

Motor Vehicles Act, 1988 — Section 48, 50

Citation : (1992) 2 KLJ 982

Hon'ble Judges : M.M. Pareed Pillay, J

Bench : Single Bench

Advocate : M.K. Chandra Mohan Das, for the Appellant; T.V. George Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

M.M. Pareed Pillay, J.—Second petitioner who is the registered owner of a state carriage bearing Registration No. K.R.C. 6264 decided to transfer the permit and vehicle in favour of the first petitioner. Petitioners 1 and 2 submitted a joint application for transfer of the vehicle and permit. Respondents demanded the petitioners to produce a No Objection Certificate from the District Labour Officer. This is challenged in this writ petition. Learned counsel for the petitioners submitted that the demand of respondents to produce a No Objection Certificate from the District Labour Officer for effecting the transfer is illegal and without jurisdiction as there is no provision under the Kerala Motor Vehicles Act or Rules which would enable the respondents to insist upon the production of such a certificate. Learned Government Pleader submitted that such a direction was issued with a view to find out whether any amount is due as wages and other emoluments to the employees of the transferor and though there is no particulars provision under the Act or Rule to do so It was done only in the best interest of the workers. Even if that be so, there is no justification to Insist upon a No Objection Certificate from the District Labour Officer as the Act or Rule do not envisage such a thing.

2. Section 50 provides for transfer of ownership. In a case where the ownership of any motor vehicle registered is transferred the transferor has to report the fact of transfer with necessary documents to the registering authority within whose jurisdiction the transfer is to be effected. He shall simultaneously send a copy of the report to the transferee. In the case of vehicle registered within the same State, fact of transfer must be reported within 14 days of transfer. In the case of a vehicle registered outside the State, 45 days" time is there for report and the transferor shall also forward to the registering authority a No Objection Certificate obtained u/s 48. Act or Rules do not provide that no objection certificate will have to be obtained from the District Labour Officer. Production of No Objection Certificate mentioned in Section 48 has nothing to do with the one insisted upon by the respondents.

3. Section 48 provides for issuance of No Objection Certificate. Sub-section (5) envisages that before granting or refusing to grant the no objection certificate, the registering authority shall obtain a report in writing from the police that no case relating to the theft of the motor vehicle concerned has been reported or is pending, verify whether all the amounts due to Government including road tax in respect of that motor vehicle have been paid and take into account such other factors as may be prescribed by the Central Government.

4. As the vehicle in question has been registered within the same State Section 50 (1) (a) alone has to be complied with. There is no question, of obtaining no objection certificate u/s 48 as it is not a case for assignment of a new registration mark u/s 47(1) or a case of transfer of the vehicle to be effected in a State other than the State of its registration. Obtainment of a no objection certificate u/s 48 does not arise in this case. Moreover, there is no provision under the Act or Rules to call upon a party to produce a no objection certificate from the District Labour Officer.

5. The direction of the respondents that the petitioners should obtain no objection certificate from the District Labour Officer, Kanpur cannot be sustained. Ext. P3 is quashed. Respondents are directed to dispose of Ext. P-1 application without insisting upon a no objection certificate from the District Labour Officer. The Original Petition is allowed. No costs.