
(2006) 05 KL CK 0018
In the High Court Of Kerala
Case No : O.P. No. 23961 of 2001

Pushpalatha

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 25-05-2006

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 126
Motor Vehicles Act, 1988 — Section 52, 52(1)

Citation : (2006) 3 ACC 840 : (2006) 3 ILR (Ker) 125 : (2006) 3 KLT 166

Hon'ble Judges : Thottathil B. Radhakrishnan, J

Bench : Single Bench

Advocate : M.V.S. Nampoothiry, for the Appellant; B. Ramachandran, C.G.S.C. and M.A. Fayaz, Government Pleader, for the Respondent

Judgement

Thottathil B. Radhakrishnan, J.—This Writ Petition is filed seeking a direction that immediate and effective steps be taken for introduction of gas kits in two and three wheelers in the State and for forbearing from taking action against the owners of vehicles who convert their vehicles with LPG kits.

2. Section 52 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). was amended by the Motor Vehicles (Amendment) Act, 2000 providing for the facility of conversion of vehicles using LPG and CNG as fuel. That amendment was published in the Gazette of the Government of India on 14-8-2000. The proviso to Section 52(1) thus brought in by substitution of the amending Act of 2000 is that where the owner of a motor vehicle makes modification of the engine, or any part thereof, of a vehicle for facilitating its operation by different type of fuel or source of energy including battery, compressed natural gas, solar power, liquid petroleum gas or any other fuel or source of energy, by fitment of a conversion kit, such modification shall be carried out subject to such conditions as may be prescribed. It is also further provided that the Central Government may prescribe specifications, conditions for approval, retrofitment and other related matters for such conversion kits.

3. Consequent on the aforesaid amendment to Section 52 of the Act, the Ministry of Surface Transport instructed all the State Governments by letter dated 3-1-2001 to take necessary steps for making necessary endorsement on the registration certificate book of such vehicles with respect to authorised use of CNG, if such vehicle is retrofitted/fitted with a conversion kit approved by any of the testing agencies prescribed under Rule 126 of the Central Motor Vehicles Rules, 1989. In so far as the Kerala Government is concerned, vide an Endorsement No. C1.5984/TC/2001, the said information has been brought to the notice of the authorities of the Motor Vehicles Department. The Government of Kerala have accordingly issued instructions to the Officers of the Motor Vehicles Department to endorse the conversion of the type of fuel provided, the gas cylinders and conversion kits satisfy the specifications laid by the Ministry of Surface Transport, Government of India.

4. Later, the Government of India made necessary amendments in the Central Motor Vehicles Rules as per the amendment notification published in the Gazette on 24-4-2001. By such notification, the Government of India laid down certain conditions with regard to the quantity of emission from such vehicles which are fitted with LPG or CNG. Besides, the LPG kits have to meet the type approval of the testing agencies under Rule 126 of the Central Motor Vehicles Rules.

5. Rule 15-B.A.(II)(b) of the Central Motor Vehicles Rules provided, inter alia, that for the purpose of approval of the kit, the supplier of the kit shall obtain certificate from any of the testing agencies authorised under Rule 126.

6. In so far as the policy is concerned, the State Government and the Central Government appear to be in favour of using LPG and CNG as fuel in motor vehicles provided that LPG/CNG cylinders and conversion kits are approved by the testing agencies. This has been made clear in the amendment of the Central Motor Vehicles Rules issued as per notification dated 24-4-2001. Therefore, no discrimination is made out in using the LPG as fuel in three wheelers and two wheelers.

7. The State Government and the Central Government are encouraging the practice of using LPG and CNG as fuel in automobiles. However, the safety conditions have to be ensured and further, there shall be no misuse of the LPG or CNG cylinders or other modes of issue which are covered by subsidised programmes for use as domestic fuel.

In the aforesaid circumstances, this Writ Petition is disposed of directing that the respondents shall ensure that there is no action against the use of LPG/CNG in motor vehicles having three wheelers and two wheelers provided, the conversion kits used for the purpose are ones which are approved by the competent testing agencies as provided under Rule 126 of the Central Motor Vehicles Rules and if the fuel used is not that which is supplied for consumption for domestic purposes. No costs.