

(2011) 10 KAR CK 0026

In the Karnataka High Court

Case No : Writ Petition No's. 26194 and 27821 to 27824 of 2011 (MV)

The Headmaster, Bharat Matha School

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 18-10-2011

Acts Referred:

Citation : (2013) 4 KarLJ 412

Hon'ble Judges : Mohan Shantanagoudar, J

Bench : Single Bench

Advocate : A.G. Nagaraja, for the Appellant; T.K. Vedamurthy, High Court
Government Pleader, for the Respondent

Judgement

Mohan Shantanagoudar, J.—The demand notice vide Annexure-A, dated 5-10-2011 issued by the Regional Transport Officer, K.R. Puram, Bangalore, directing the petitioner to pay tax amounting to Rs. 4,89,260/- is called in question in these writ petitions. Petitioner's school has purchased the bus in question on 31-8-2006. Earlier to purchase, the bus was having a stage carriage permit. Accordingly, in the Registration Certificate, it was mentioned that the bus is a stage carriage vehicle. On 1-9-2006, permission was accorded to the petitioner by the 2nd respondent for converting the vehicle from public service vehicle (stage carriage) to educational institution bus. According to the petitioner, from that day onwards, the school is running the bus exclusively for transporting the students of the school and not as a stage carriage.

2. The bus was checked by the inspecting staff on 8-9-2010 and found certain deficiencies in the bus. The deficiencies are stated in the Check Report vide Annexure-D to the writ petition. The Registration Certificate indicates that the bus in question is a stage carriage bus as on the date of checking. On the said basis, demand notice is issued directing the petitioner to pay the tax treating the bus as a stage carriage.

Since the petitioner's school does not have an opportunity to put forth its case

before the 2nd respondent, in my considered opinion, interest of justice will be met if the impugned demand notice is treated as a show-cause notice issued to the petitioner. If the said notice is treated as a show-cause notice, then, it is open for the petitioner to file his statement of objections bringing all the facts to the notice of the 2nd respondent. Thereafter, the 2nd respondent may proceed in accordance with law. By the said process, no prejudice or injustice will be caused to any of the parties. Since the matter has to go back to the 2nd respondent, this Court does not comment anything on the merits of the matter. If anything is observed on merits, then, it may prejudice either of the parties. Accordingly, the following order is made:

Writ petitions are disposed of, with a direction to treat the impugned notice vide Annexure-K, dated 5-10-2010 as a show-cause notice issued to the petitioner. It is open for the petitioner to file statement of objections and produce any relevant material before the 2nd respondent within six weeks from this day. Thereafter, the 2nd respondent shall pass appropriate orders in accordance with law.