
(1964) 02 MAD CK 0022

In the Madras High Court

Case No : Writ Petition No, 1324 of 1962

T.V. Ramaswami Chettiar

APPELLANT

Vs

Regional Transport Officer, Nilgiris and Another

RESPONDENT

Date of Decision : 26-02-1964

Acts Referred:

Motor Vehicles Act, 1988 — Section 33(1)

Citation : AIR 1965 Mad 403 : (1965) ILR (Mad) 211 : (1965) 78 LW 103 :
(1965) 2 MLJ 358

Hon'ble Judges : Veeraswami, J

Bench : Single Bench

Judgement

Veeraswami, J.—The petitioner's registration certificate for his car, MDN 4820, was suspended for a period by the registering authority,

the appellate authority agreeing with it, on a charge that he plied the car illicitly as a taxi in violation of S. 33(1)(b) of the Motor Vehicles Act. The

petitioner seeks to quash the suspension of the certificate on the ground that a copy of the check report of the police officer, which led to framing

of the charge and suspension of the certificate, was not furnished to him at any stage.

2. Section 33(1) states that if any registering authority has reason to believe that any motor vehicle within jurisdiction has been used for hire, such

authority may, after giving the owner an opportunity of making any representation he may wish to make, for reasons to be recorded in writing,

suspend the certificate of registration of the vehicle for a period not exceeding four months. The principal elements of this sub-section are (i) the

registering authority should not merely believe but should have reason to believe; (ii) should give its reasons in writing for suspending the certificate

and (iii) before the authority comes to a conclusion it should have given the owner of the vehicle an opportunity of making representations which he may wish to make. The first ingredient will imply that the belief which the registering authority may form should not be on fanciful or capricious grounds and this means it must have some material which would provide the reason for the belief. It is but proper to suppose further from this ingredient that the material which formed the basis of the reason for the belief may be used against the owner of the car. It is with reference to this the requisite that an opportunity should be given to the owner to make representations should be understood. Such an opportunity must be an effective one and in order to that it may be effective it is necessary that the owner must be given a copy of the check report or he must be told in some form the material on which the registering authority has formed its belief, so that he may have the opportunity of countering it, if he can. The requisite of giving an opportunity is not merely a formal thing, but it is a matter of substance, more especially when an elaborate enquiry, notwithstanding the fact that the charge will be of a criminal nature, is not contemplated by the statutory provision. It is in order to give effect to the first two elements of the sub-section, is provided the requirement that the registering authority should give reasons in writing for suspending the certificate of registration.

3. In this case, the registering authority merely referred to the explanation of the petitioner denying the use of the car as a taxi and declined to accept it on the ground that the check report of the Sub-Inspector gave clear details. The Collector, the appellate authority, also referred to the check report as containing details furnishing the reason why the petitioner's explanation should not be accepted. It relied on the check report, without furnishing a copy thereof to the petitioner. That clearly is a denial to the petitioner of the opportunity required by the law, to make his representations.

4. The learned Additional Government Pleader argues that the charge-sheet served on the petitioner practically contained all the information that was to be found in the check report and therefore the failure to furnish in the check report did not cause perceptible prejudice to the petitioner, As I said, furnishing a copy of the check report is not merely a formal requirement,

but it is part of the opportunity which the law requires should be given to the owner of a car when charged with using it for an illicit purpose. Further, the check report contained the specific names of the passengers found in the car at the time of check. The petitioner had no information about the names of those passengers. What his defence or explanation would have been, had he been furnished with a copy of the check report containing those particulars, one need not speculate. It is sufficient to say that failure to furnish a copy of the check report containing such information is contrary to the procedure prescribed by S. 33(1).

5. On that view, the order of suspension is quashed. The petition is allowed. No Costs.

6. Petition allowed.