
(2013) 01 GUJ CK 0077

In the Gujarat High Court

Case No : Special Civil Application No. 10586 of 2004

Universal Auto Link

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 31-01-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 52

Citation : (2013) 3 ACC 311 : AIR 2013 Guj 203 : (2013) 2 GLR 1095

Hon'ble Judges : S.G. Shah, J

Bench : Single Bench

Advocate : Ramkrishna B. Dave, for the Appellant; N.J. Shah, Asst. Government Pleader, for the Respondent

Judgement

S.G. Shah, J.—The petitioner is a automobile dealer and also dealing with the distribution and retrofitting Liquid Petroleum Gas (LPG) kits

in motor vehicles. This petition is preferred for issuance of writ of mandamus, certiorari or any other appropriate writ, order or direction to restrain

the respondent No. 2 from granting permission for appointment of the petitioner as distributor/retrofitter of LPG kits and for instructions to all

Transport Authorities (registering authorities) to accept the vehicles for alteration as per the Cause F, sub-rule (4) of Rule 115 C of the Central

Motor Vehicles Rules, 1989("Rules" for short). The rule was issued on 27.9.2004 with specific direction to the respondents to file reply and

permitting the petitioner to move the Court for expediting the hearing of the matter, may be because of the reason that interim relief prayed in

paragraph 20(D) was not granted on that day. The record shows that even after 8 years, the respondents have not filed reply till date and,

therefore, it is to be believed that respondents do not want to file reply.

2. Heard learned advocate Mr. Ramkrishna B. Dave and Mr. N.J. Shah, learned A.G.P. for the respondents.

3. It is submitted by learned advocate Mr. Ramkrishna B. Dave for the petitioner that after amendment of Section 52, working effect from

11.8.2000 in the Motor Vehicles Act, 1988, provision for fitment of Liquid Petroleum Gas was introduced and, thereupon, Central Motor

Vehicles Rules, 1989 was also suitably amended for fitment of LPG kit by Notification dated 24.4.2001. He relied upon the provision of Clause F

of sub-rule (4) of Rule 115 C of the Rules, which reads as under;

The retro fitment of LPG kits in on in use vehicles, shall be carried out by workshops authorized by the Kit Manufacturer/Kit Supplier or Vehicle

Manufacturer, as the case may be.

It is their case that the Government of India, Ministry of Road Transport and Highways by its letter dated 17.2.2003, copy of which is produced at

Annexure-A with the petition, has informed one of the dealer M/s. Yash Propane Auto Energy Pvt. Ltd. that the list of LPG kits has already been

circulated to all States/UTs vide Ministry's letter dated 12.12.2002 and that it was done to disseminate the information available and there is no

statutory requirement for doing so and that all the vendors of kit complying with the provisions of CMV Rules can approach the Registering

Authority directly. It is further stated in the said letter that the Ministry had already advised the Transport Secretaries/Commissioners of all the

States/UTs vide their letter dated 21.1.2002 that in light of Ministry's Notification dated 24.4.2001, instructions may be issued to all the RTOs to

register LPG as fuel in RC Books only if the LPG kit is in accordance with the certificate issued by any of the testing agencies under Central Motor

Vehicles Rules, 1989. The petitioner has also produced at Annexure-B copy of a letter dated 4.7.2002 issued by respondent No. 2-

Commissioner of Transport to all the RTOs/ARTOs for acceptance of one M/s. O.M.V.L.S.R.L., Italy LPG kit for retrofitment on "in-use"

vehicles. Petitioner has also produced copy of certificate from ACE LPG Car Kits Pvt. Ltd., appointing them as exclusive distributor for Gujarat

State, who was permitted for fitment of LPG Conversion Kits by order of respondent No. 2 dated 18.1.2003. At Annexure E, copy of letter

dated 21.12.2002 by the respondent No. 2 addressed to all RTOs and ARTOs

regarding acceptance of LPG kit of particular model of ACE

Company is produced, whereas at Annexure F, copy of permission to appoint present petitioner as Sub selling and Retrofitting Agent for Gujarat

State for the LPG conversion kits to M/s. ACE LPG Car Kits Pvt. Ltd., Mumbai is produced. Several other documents confirming the eligibility of

the petitioner to work as an authorised dealer of such LPG kits and authorisation from different LPG kit manufacturing companies vide M/s. Yash

Propane Auto Energy Pvt. Ltd., Gascon Auto Pvt. Ltd., Leader Auto Gas (I) Pvt. Ltd., Hovel Autogas are also produced on record to show that

petitioner is authorized by such kit manufacturer/kit supplier for installation of such LPG kit in vehicles.

4. It is, therefore, submitted by the petitioner that even after specific provision of Rule 115C, sub-rule (4), Clause F of the Central Motor Vehicles

Rules, 1989, which simply requires that the retro fitment of LPG kits on in-use vehicles can be carried out by workshops authorized by the Kit

Manufacturer/Kit Supplier or Vehicle Manufacturer, as the case may be. In view of specific direction by the Ministry of Road Transport and

Highways, Government of India vide letter dated 17.2.2003 and that there is no other statutory requirement and that all such vendors can

approach the Registering Authority directly for registration of the vehicles after retrofitting the LPG kit; the respondents No. 1 and 2 are pressing

all such gas dealers to get them registered with respondent No. 2 and to get such registration renewed every year. Atleast one such circular is

produced on record at Annexure-I. Therefore, petitioner is seeking a direction or appropriate writ to restrain respondents No. 1 and 2 from

granting such appointment or permission as Dis-tributor/Retrofitter of LPG Kits on yearly basis and to direct the RTOs to register the vehicle if

they are complying with the provisions of Rule 115C(4)(F) of the Central Motor Vehicles Rules, 1989.

5. As against that there is no reply by the respondents and it is submitted by Mr. Shah, learned A.G.P. that their action is based upon the

administrative policies by the State Government and, therefore, this Court should not interfere in the administrative policies of the State

Government and that if such dealers are permitted to retrofit LPG kit in their vehicles, there may be possibilities of mishaps or accident as it is being

happening in several cases where vehicles get burnt on road.

6. On perusal of record and relying upon the provisions of Central Motor Vehicles Rules, 1989, more particularly Rule 115C(4)(F) r/w letter

dated 17.2.2003 by the Central Government, contents of which is elaborated herein above, it becomes clear that for registration of vehicle with

LPG kit, the only requirement which is relevant under the law is such that retrofitment of LPG kits on in-use vehicle shall be carried out by

workshops authorized by the Kit Manufacturer/Kit Supplier or Vehicle Manufacturer, as the case may be and for the purpose even the Central

Government has categorically confirmed that there is no other statutory requirement for doing so, there is no reason for the present respondents to

ask for any additional formalities or conditions except the conditions laid down in Central Motor Vehicles Rules, 1989 with reference to

retrofitment of LPG kit and use of vehicle with said LPG kit The documents produced by the petitioner also confirms such position.

7. The petitioner has proved on record that it is authorized by several gas kit manufacturers/kit suppliers and, therefore, they are entitled to

retrofitting the LPG kit and there is no need to get them registered with respondent No. 2 or to get prior permission from respondent No. 2 for

their activity and business as workshop for LPG kit installer. To that extent, petitioner succeeds since the respondent has no say and has not filed

reply or objection to such reliefs for last more than 8 years.

8. However, though the petition can be allowed as discussed herein above, it is necessary to make it clear that petitioner or any workshop, who

are permitted to carry out the retrofitment of LPG kits on in-use vehicles by Kit Manufacturer/Kit Supplier would not amount to confirmation that

LPG kit fitted by them is in accordance with all other technical confirmation and provisions for the purpose under the Central Motor Vehicles

Rules, 1989. Thereby, even though the petition is allowed, it is, as prayed for, restricted to the confirmation that petitioner or workshop owner,

who are authorised by the Kit Manufacturer/Kit Supplier shall carry out the retrofitment of LPG kits on in-use vehicles, but such retrofitment shall

be perfectly in accordance with the technical requirement and subject to approval by the registering authority, which is entitled to and empowered

to verify the vehicle technically. Thereby the respondents are restrained from

asking for registration of such workshop owners like petitioner and nothing more than that. It is made clear that accepting the vehicle for registration with LPG kit retrofitted by such dealers, neither confirms that retrofitment is technically approved by the Registering Authority and that all technical issues, including confirmation of standard for such technicalities or for public liability in case of accident rests upon the vehicle owner and/or such retrofitting workshop owners. With above observations, the petition is partly allowed to the above extent whereby respondents are restrained from asking for registration of such workshop owners like petitioner and with direction that the registering authority has to check and verify each such vehicle where LPG kit is retrofitted for all technical issues, since each vehicle may have different problem if such kit is installed in local workshops.