

(2014) 09 KL CK 0010
In the High Court Of Kerala
Case No : WP(C).No. 24655 of 2014 (F)

Wayanad Muslim Orphanage Muttill	Vs	APPELLANT
Additional Registering Authority Regional Transport Office		RESPONDENT

Date of Decision : 23-09-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 14, 2, 47

Citation : (2014) 09 KL CK 0010

Hon'ble Judges : K. Vinod Chandran, J

Bench : Single Bench

Advocate : G. Hariharan and Praveen H, Advocate for the Appellant; Biju Meenattoor, Government Pleader, Advocate for the Respondent

Judgement

K. Vinod Chandran, J.—The petitioner is a Society registered under the Societies Act and claims to be engaged in charity work, by conducting an orphanage for the welfare of the children. The petitioner is the registered owner of a Bolero Plus AC nine seater light motor vehicle, which is sought to be registered as a "private service vehicle for personal use". The petitioner contends that the said vehicle has been purchased for using the same for the exclusive use of the students and children of the Wayanad Muslim Orphanage under which "there are a lot of educational institutions from lower primary school to Engineering Colleges and other higher level educational institutions". A request was made to register the vehicle as "private service vehicle for personal use". But the respondent expressed his inability to register the vehicle as a "private service vehicle for personal use" since the seating capacity of the vehicle is above seven in all, is the contention. The petitioner contends that the issue is no longer res integra in view of the authoritative pronouncement of this Court in Cheriyan v. Transport Commissioner [2009 (2) KLT 583] and Jagan Thomas Vs. State of Kerala and Others, .

2. In Cheriyan's case (supra) this Court had declared that with respect to vehicles which are constructed and adapted for carriage of goods and carriage of

passengers, the primary aspect to be considered is the use to which it is put. It was also declared that if the vehicle in question is a Light Motor Vehicle, then the registration ought to be granted in that category and not as a goods carriage, if it is not intended to be used as a goods carriage. It was also clarified that if at all the vehicle was used other than for the purpose for which it was registered, then it was open to the authorities to reclassify the vehicle as a Transport Vehicle.

3. In the present case, the petitioner proclaims to be a charitable institution carrying on very many educational institutions including professional colleges. They specifically aver that they intend to use the vehicle for the exclusive use of the students and children of the Wayanad Muslim Orphanage under which there are a lot of educational institutions from lower primary school to Engineering Colleges and other higher level educational institutions.

4. In the above circumstances, the definition of "goods carriage" and "transport vehicle" in sub sections 14 and 47 of Section 2 of the Motor Vehicles Act, 1988 assumes significance.

"(14) "Goods Carriage" means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods:

(47) "Transport vehicle" means a public service vehicle, a goods carriage, an education institution bus or a private service vehicle."

5. Hence, though the present vehicle is not a motor vehicle constructed or adapted for use, solely for the carriage of goods, the petitioner intends to use it for its business concern; which also includes educational institutions. The dominant use to which the petitioner intends to put the vehicle is for their business activities. Jagan Thomas (supra) was a case in which the department refused to register the vehicle since the address of the owner shown was the business address. The vehicle all the same was registered in the name of an individual. Herein the purchase has been effected in the name of the Secretary and not of any individual. On the facts disclosed from the averments in the instant writ petition and the specific case of the intended use of the vehicle; is to put it for use in its business activities, Cheriyan's case (supra) is not applicable nor would Jagan Thomas (supra) be applicable.

The Writ Petition, hence is dismissed. No costs.