



2024:KER:83404

WP(C) NO. 35424 OF 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE D. K. SINGH

WEDNESDAY, THE 6TH DAY OF NOVEMBER 2024 / 15TH KARTHIKA, 1946

WP(C) NO. 35424 OF 2024

PETITIONER:

SABEER A
AGED 53 YEARS
S/O ABOOBAKER RAIHANS MANGALAPURAM, THONAKKAL P.O, VELLOOR
VILLAGE, MELTHONNAKKAL, THIRUVANANTHAPURAM, PIN - 695317

BY ADVS.
SHINTO THOMAS
ABHIRAMI S.
GAUTHAM KRISHNA E.J. (K/002565/2022)
MEGHA BIJU (K/1365/2023)

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY, TRANSPORT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE TRANSPORT COMMISSIONER
OFFICE OF THE TRANSPORT COMMISSIONER, MOTOR VEHICLES
DEPARTMENT, STATE OF KERALA, VAZHUTHACUD THIRUVANANTHAPURAM,
PIN - 695001
- 3 REGIONAL TRANSPORT OFFICER (RTO)
OFFICE OF THE RTO, ATTINGAL, THIRUVANANTHAPURAM, PIN -
695101
- 4 REGIONAL TRANSPORT OFFICER (RTO)
OFFICE OF THE RTO, KAZHAKOOTAM, THIRUVANANTHAPURAM, PIN -
695582
- 5 KIA AUTOMATIVE MANUFACTURES PRIVATE LIMITED
SY NO 169/14, PAROORKUZHI, VEDIVECHANKOVIL, PALLICHAL,



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TRIVANDRUM, PIN - 695020

6 THE SECRETARY
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS, TRANSPORT BHAWAN,
1, PARLIAMENT STREET, NEW DELHI, PIN - 110001

BY ADVS.
MINI GOPINATH
KRISHNA T C

SRI. SREEJITH V.S.-GP AND SMT. MINI GOPINATH-FOR R6

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
06.11.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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JUDGMENT

The present writ petition has been filed by the petitioner, who is the owner of Vehicle Sonet G1.OT 7DCT HTX, Chassis No.: MZBFF811VRN413379, Engine No.: G3LCRM143904. The petitioner has sought relief in the nature of mandamus commanding the 3rd respondent to complete the registration process of the said vehicle and issue the registration certificate for the vehicle with the registration number KL 16 AC 1984 under Section 40 of the Motor Vehicle Act, 1988('the MV Act' for short).

2.The petitioner purchased the said vehicle from the 5th respondent. The petitioner was issued with a temporary registration certificate on 23.05.2024 by the Regional Transport Officer (RTO) Attingal. The petitioner wanted to have a fancy number; therefore, he participated in the online auction process for fancy numbers, which was conducted through the Parivahan online portal under the aegis of the Ministry of Road Transport and Highways. The petitioner successfully secured



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the fancy registration number KL 16 AC 1984 after duly making the requisite payment of Rs.3500/-.

3.The petitioner thereafter approached the 3rd respondent to register the vehicle with the registration number KL 16 AC 1984. However, the 3rd respondent directed the petitioner to approach the 4th respondent as the petitioner is not residing in the jurisdiction of the 3rd respondent, nor does he have a place of business in the jurisdiction of the 3rd respondent.

4.The learned counsel for the petitioner submits that in view of the amendment brought in Section 40 of the MV Act with effect from 01.09.2019, every owner of the motor vehicle is entitled to have the registration of his motor vehicle within the State of his residence from any registering authority. He, therefore, submits that the insistence by the 3rd respondent to get the vehicle registered from the 4th respondent as the petitioner has the residence with the jurisdiction of the 4th respondent is against the amended provisions of Section 40 of MV Act. The learned counsel for the petitioner has placed reliance on the advisory issued by the Government of India.



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5.The advisory dated 29.01.2024, issued by the Government of India, Ministry of Road Transport & Highways has been placed on record as Ext.P4 would read as under;

No. RT-11036/230/2021-MVL-Part(1)
Government of India
Ministry of Road Transport & Highways
MVL Section
Transport Bhawan,1, Parliament Street, New Delhi 110001
The 29th of January, 2024

To.

1. All Principal Secretaries/Secretaries,
2. State Government/ Administration of Union Territory

2. All Transport Commissioners.
State Government/ Administration of Union Territory

Subject: Applications under Chapter IV of the Motor Vehicles Act, 1988 ("MV Act") to any registering authority in the State - reg.

Sir/Ma'am,

I am directed to say that it has been brought to the notice of this Ministry that while rendering services relating to inter-alia, registration of motor vehicles, transfer of ownership, cancellation of registrations and provision of duplicate registration certificates, the registering authorities are continuing to insist that the owner/ applicant should have the residence or place of business within the local jurisdiction of the said registering authority. This practice defeats the very purpose of amendment of 2019 (Act 32 of 2019) and increases hardship to citizens in availing these services despite the implementation of VAHAN and SARATHI services that are aimed at citizen facilitation.

2. In this connection, attention is invited to Section 40 of the MV Act, as amended by the Motor Vehicles (Amendment) Act, 2019, which stipulates that applications for registration of motor vehicles can be made to "any registering authority in the State" in whose jurisdiction the owner has the residence or place of business where the vehicle is normally kept.

3. It is, therefore, clarified that the registering authorities shall accept and process all applications under Chapter IV of the MV Act and rules made thereunder, to be made to any registering authority in the State, irrespective of their place of residence or business within the State.

4. This issues with the approval of competent authority.

Yours faithfully,
(S.K Geeva)

Under Secretary to the Govt. of India

6. The learned counsel for the 6th respondent has supported



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the submission of the learned counsel for the petitioner and has already clarified the law position in the advisory issued on 29.01.2024, in Ext.P4 that the owner of the motor vehicle can make the application for registering the motor vehicle to any registering authority in the State under whose jurisdiction the owner has the residence or place of business or where the vehicle is normally kept. Further direction has been issued that the registering authority shall accept and process all applications under Chapter IV of the MV Act and rules made thereunder to be made to any registering authority in the State, irrespective of the place of residence or business within the State.

7.Mr. V.S Sreejith, the learned Government Pleader however submits that the amended provision of Section 40 of MV Act also would indicate that the residence or the place of residence where the vehicle is normally kept has to be within the jurisdiction of the registering authority.

8. I have considered the submissions advanced.

9.Section 39 of the MV Act mandates the registration of motor vehicles and provides that no owner shall drive the



motor vehicle in any public place without having the vehicle registered.

Section 39 of the MV Act would reads as under:-

“39. Necessity for registration. - No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner:

Provided that nothing in this section shall apply to a motor vehicle in possession of a dealer subject to such conditions as may be prescribed by the Central Government.”

10. Section 40 of the MV Act provides for the place where the motor vehicle has to be registered would reads as under:-

40. Registration, where to be made. - Subject to the provisions of section 42, section 43 and section 60, every owner of a motor vehicle shall cause the vehicle to be registered by [any registering authority in the State] in whose jurisdiction he has the residence or place of business where the vehicle is normally kept.

11. Phrase “ any registering authority in the State” has been substituted for (“registering authority”) vide the amendment at 2019 with effect from 01.09.2019. Central Government has clarified the position by issuing the advisory in Ext.P4.

12. Therefore, considering the language implied in Section



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40 of the MV Act and advisory issued by the Central Government, it is evident that the jurisdiction is in respect of the State and not in respect of the registering authority for registering the motor vehicle. A person residing in a State or have place of business in a particular State can get the motor vehicle registered by any of the registering authorities of that State. Therefore, the insistence by the 3rd respondent that since the petitioner does not have a residence or place of business within the jurisdiction of the 3rd respondent is contrary to the express provision of Section 40 of the MV Act and is unsustainable in law.

The present writ petition is allowed, and the 3rd respondent is directed to register the motor vehicle of the petitioner forthwith and also issue the fancy registration number KL 16 AC 1984.

Sd/-

D. K. SINGH

JUDGE

SJ



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APPENDIX OF WP(C) 35424/2024

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE TEMPORARY REGISTRATION
CERTIFICATE ISSUED ON 23RD MAY 2024, IN FORM C.R.
TEM UNDER RULE 94(3))
- Exhibit P2 A TRUE COPY OF THE SCREEN SHOT OF THE
CONFIRMATION MESSAGE
- Exhibit P3 A TRUE COPY OF SCREENSHOT INFORMING THAT
PETITIONER'S REGISTRATION APPLICATION HAD BEEN
PLACED ON HOLD UNDER THE PRETEXT OF "NOT UNDER
JURISDICTION".
- Exhibit P4 A TRUE COPY OF THE ADVISORY ISSUED BY THE
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS (6TH
RESPONDENT) DATED 29TH JANUARY 2024