

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF DECEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION NO.683 OF 2022 (MV)

C/W

WRIT PETITION NO.2153 OF 2022 (MV)

IN WP NO.683/2022

BETWEEN

MR RANJITH K P
AGED ABOUT 43 YEARS
S/O SHRI K K PEETHAMBARAN
R/AT NO. 004, VISHAL PARK WOOD
KESHAVARAJ LAYOUT
CAMBRIDGE ROAD, HALASURU
BENGALURU - 560 008

...PETITIONER

(BY SRI PRADEEP KUMAR J, ADVOCATE)

AND

- 1 . THE PRINCIPAL SECRETARY TO GOVERNMENT
TRANSPORT DEPARTMENT
GOVERNMENT OF KARNATAKA
153, 1ST FLOOR
M S BUILDING
DR B R AMBEDKAR VEEDHI
BENGALURU - 560 001
- 2 . THE COMMISSIONER
TRANSPORT AND ROAD SAFETY
I FLOOR, A-BLOCK, TTMC BUILDING
SHANTINAGAR, BENGALURU - 560 027

- 3 . DEPUTY COMMISSIONER FOR TRANSPORT AND SENIOR REGIONAL TRANSPORT OFFICE
BENGALURU SOUTH
JAYANAGAR SHOPPING COMPLEX,
4TH BLOCK, JAYANAGAR
BENGALURU - 560 011
- 4 . JOINT SECRETARY
MINISTRY OF ROAD TRANSPORT
AND HIGHWAYS
TRANSPORT BHAWAN,
1, PARLIAMENT STREET,
NEW DELHI - 110 001
- 5 . NATIONAL INFORMATICS CENTRE
KARNATAKA STATE UNIT,
VI AND VII FLOOR, MINI TOWER
BENGALURU - 560 001.

...RESPONDENTS

(BY SMT JYOTHI BHAT, HCGP FOR R1 TO R3
SRI GURURAJ YADRAVI, ADVOCATE FOR R5
SRI H SHANTHI BHUSHAN, ASG FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED NOTIFICATION DTD.20.12.2021 PASSED BY THE COMMISSIONER OF TRANSPORT AND ROAD SAFETY BANGALORE AT ANNEXURE-K AND DIRECT THE R-2 TO GRANT BH SERIES REGISTRATION TO THE PETITIONER AND ETC.

IN WP No.2153/2022

BETWEEN

MRS SHALINI T
AGED ABOUT 34 YEARS
D/O MR THANGAVELU A

R/AT DV 117,IISC QUARTERS
ISRO ROAD, VIJINAPURA CAMPUS
SANJAY NAGAR
OPP TO ISRO HEAD QUARTERS
BENGALURU 560094

...PETITIONER

(BY SMT ANISHA AATRESH, ADVOCATE FOR
SRI PARASHURAM A L, ADVOCATE)

AND

1 . REGIONAL TRANSPORT OFFICE
YESHWANTHPUR
3RD FLOOR SHOPPING COMPLEX
RAILWAY STATION ROAD
YESHWANTHPUR
BENGALURU 560022
REP BY THE REGIONAL TRANSPORT OFFICER

2 . COMMISSIONER FOR TRANSPORT
AND ROAD SAFETY
1ST FLOOR A BLOCK
TTMC BUILDING
K H ROAD, SHANTHINAGAR
BENGALURU 560027

3 . STATE OF KARNATAKA
TRANSPORT DEPARTMENT
3RD FLOOR
VIDHANA SOUDHA
BENGALURU 560001
REP BY PRINCIPAL SECRETARY

4 . UNION OF INDIA
MINISTRY OF ROAD TRANSPORT
AND HIGHWAYS
TRANSPORT BHAWAN 1,
PARLIAMENT STREET
NEW DELHI 110001
REP BY THE PRINCIPAL SECRETARY

...RESPONDENTS

(BY SMT JYOTHI BHAT, HCGP FOR R1 TO R3

SRI GOREPPA S, CGC FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE COMMUNICATION BEARING DTD. 20.12.2021 ISSUED BY THE R-2 (AT ANNEX-H) AND ETC.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 13.12.2022, COMING ON FOR 'PRONOUNCEMENT OF ORDER' THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

WP.No.683/2022 is filed seeking the following reliefs:

"i) Issue a Writ of Mandamus or any other appropriate Writ or order quashing the impugned Notification No.TC/Regn-1/PR-412/2021-22 dated 20.12.2021 passed by the Commissioner of Transport and Road Safety, Bangalore at Annexure-K and direct the Respondent No.2 to grant BH series registration to the Petitioner.

ii) Pass any other orders/direction as this Hon'ble Court deems fit in the circumstances of the case.

iii) To award costs."

2. WP.No.2153/2022 is filed seeking the following reliefs:

"(a) Issue a writ of certiorari or any other appropriate writ or order setting aside the Communication bearing number SaAa/Nondani-

1/PR-412/2021-22 dated 20.12.2021 issued by the Respondent No 2 (at Annexure - H).

(b) Issue a writ of mandamus or any other appropriate writ or order directing the Respondent No 1 to grant the BH Series registration mark to the Petitioner's vehicle, being a metallic magma gray-Z7Q Maruti Wagon R XVI (O) IL AGS- WAA4CVA car, having Chassis number MA3JMT31SMF494697 and Engine Number K10BN8536497, in accordance with Section 39 of the Motor Vehicles Act, 1988 read with the Central Motor Vehicles (Twentieth Amendment) Rules, 2021.

(c) Issue a writ of mandamus or any other appropriate writ or order directing the Respondent No 3 to implement the Central Motor Vehicles (Twentieth Amendment) Rules, 2021 in the State of Karnataka, in letter and spirit.

(d) Grant such other orders as may be just including the costs of this Petition, in the interests of justice."

3. Since the main relief sought in both the above Writ Petitions is quashing of the Communication bearing No.TC/Regn-1/PR-412/2021-22, dated 20.12.2021 issued by the Commissioner of Transport and Road Safety, Government of Karnataka, Bangalore, they were heard together and are being disposed off by this common order.

4. It is the case of the Petitioner in WP.No.683/2022 that he is employed in M/s Fortinet Technologies India Pvt. Ltd., (hereinafter referred to as the 'Company') as a Director w.e.f., 1.12.2015 and that, it is a transferable job. The said Company has its offices across India and regional offices in Karnataka, Tamil Nadu, Maharashtra and Kerala. That the Petitioner has purchased a Toyota Fortuner Sigma IV (AT) from M/s Ravindu Toyota, Victoria Road, Bangalore.

5. It is the case of the Petitioner in WP.No.2153/2022 that she is employed as a Team Lead for the Project Management Team at Accenture Solutions Pvt., Ltd., which Company has branches all over the country and the said job of the Petitioner is subject to transfer within India. That on 7.9.2021 she has purchased a metallic magma gray -Z7Q Maruti Wagon R XVI (O) 1L AGS-WAA4CVA car, having chassis number MA3JMT31SMF494697 and engine number K10BN8536497 from Varun Motors Pvt. Ltd., Malleshwaram, Bengaluru.

6. It is the case of the Petitioners in both the Writ Petitions that, the Ministry of Road Transport and Highways (hereinafter referred to as 'MORTH'), Government of India, vide Notification bearing No.G.S.R.594(E), dated 26.8.2021, introduced a new registration mark for new vehicles called "Bharath Series (BH-Series)" and that the marking will not require an assignment of a new registration mark when the owner of the vehicle shifts from one State to another. That as per the said Notification dated 26.8.2021, the vehicle registration facility under BH-Series will be available on voluntary basis to defence personnel, employees of Central Government/State Government, Central/State Government Public Sector Undertakings, private sector companies/organizations which are having their offices in 4 or more States/Union Territories. That the Petitioners after purchase of the vehicles sought for registration of their vehicles as per the BH-Series. However, they were informed by the dealer that the on-line portal is not accepting BH-Series registration for private individuals.

Further, it is contended by the Petitioners that the Transport Offices in the State of Karnataka are not accepting registration of the vehicles of the Petitioners under BH-Series by virtue of the Notification dated 20.12.2021 issued by the Commissioner of Transport and Road Safety, Bangalore. Hence, the present Writ Petitions are filed seeking for suitable reliefs.

7. The reliefs sought for by the Petitioners are opposed by Respondent Nos.1 to 3 – State of Karnataka by filing the Statement of Objections. Respondent Nos.1 to 3 although admit the Notification dated 26.8.2021 issued by the MORTH, New Delhi introducing BH-Series registration for non-transport vehicles and that, the Government of Karnataka has issued a Notification dated 30.11.2021 permitting the authorities to register non – transport vehicles under BH-Series in terms of the Notification dated 26.8.2021. However, due to registration of vehicles under BH-Series there is a possibility of reduce in collection of State revenue and that the Department may not reach the

target fixed by the State Government in collection of revenue, hence the communication/letter dated 20.12.2021 was issued to register the new non-transport vehicles of persons excluding the private sector employees under BH-Series registration in the first phase. It is further contended that, since most of the employees are working on contract basis and they are frequently changing from one Company to another, there is no guarantee of working in the same Company, the said communication dated 20.12.2021 is issued; that there would be no provision to check the genuinity of documents issued by the Private Companies and hence, the same would be a draw back to the State Government for collecting taxes; that the State is empowered under Entry 57 to List II of the State List in 7th Schedule of the Constitution of India and is competent to levy and collect taxes on vehicles which is a State subject; that the stand of the State is confirmed vide communication letter dated 11.5.2022 and a partial modification of the same has been issued vide Notification dated 4.8.2022 in consonance with

the communication letter dated 7.1.2022. Hence, the learned HCGP seeks for dismissal of the Writ Petitions.

8. The learned Counsels for the Petitioners contends that under Section 64(b) and (c) of the Motor Vehicles Act, 1988, (hereinafter referred to as 'the MV Act') it is the Central Government which is vested with the power to make Rules with respect to registration of vehicles and that the power of the State Government is contained under Section 65 of the MV Act, under which the State Government does not have any power with regard to the registration of vehicles. Hence, it is submitted that the Petitioners having submitted all relevant documents as contemplated under the Notification dated 26.8.2021 issued by the Government of India and the Petitioners having demonstrated that their employers have branches in four States, the reliefs sought in the Writ Petition are liable to be granted. The learned Counsels further relied upon the letter dated 2.12.2021 issued by the MORTH, Government of India to the Jurisdictional Commissioners of

the State requesting for implementation of the Notification dated 26.8.2021 since grievences from the public were received in this regard. The learned Counsel for the petitioner in WP No.683/2022 further submitted that in respect of similarly placed persons, the jurisdictional authorities of the State have registered the vehicle under BH-Series. The learned Counsel for the petitioner in WP No.2153/2022 submitted that Article 256 of the Constitution of India clearly stipulates the obligation of the States and the Union *visa-a-vis* the laws made by the Parliament and the executive power of the Union to give any such directions to a State for the compliance of such laws. Hence, the learned counsels seek for granting of the reliefs sought for in the Writ Petitions.

9. The learned HCGP reiterates the contentions putforth in the Statement of Objections.

10. The Government of India who is also arrayed as a party Respondent has filed its Statement of Objections in WP.No.2153/2022 and has placed on record

the communication dated 2.12.2021 which has requested implementation of the Notification dated 26.8.2021.

11. I have considered the submissions made by the learned Counsel for the parties and perused the material on record. The question that arises for consideration is,

'Whether the reliefs sought in the Writ Petitions are liable to be granted?'

12. It is the case of the Petitioners that they have purchased vehicles as aforementioned and that their request for registration of the same is being refused by the jurisdictional transport authorities of the State of Karnataka by relying upon the communication dated 20.12.2021. It is clear from the Notification dated 26.8.2021 issued by the MORTH that the Central Motor Vehicles (Twentieth Amendment) Rules, 2021, were made in exercise of power under Section 64(a), (d) and (p) of the MV Act, whereby various amendments were made in

the Central Motor Vehicles Rules, 1989, enabling registration of the vehicles under BH-Series and the said facility was to be available on *"voluntary basis to defense personnel, employees of Central Government/State Government/Central/State Public Sector Undertakings and private sector companies/organizations, which have their offices in four or more States/Union Territories"*;

13. With regard to the tax to be levied, Rule 51-B was inserted vide Notification dated 26.8.2021, whereunder for BH-Series, the motor vehicle tax was to be levied for 2 years or in multiples of two and after completion of 14 years, the motor vehicle tax was to be levied annually which shall be half of the amount of which was charged earlier for that vehicle.

14. Section 64(a), (b), (c), (d), (da) and (p) of the MV Act, 1988 reads as follows:

64. Power of Central Government to make rules.—The Central Government

may make rules to provide for all or any of the following matters, namely:—

(a) the period within which and the form in which an application shall be made and the documents, particulars and information it shall accompany undersub-section (1) of section 41;

(b) the form in which the certificate of registration shall be made and the particulars and information it shall contain and the manner in which it shall be issued under sub-section (3) of section 41;

(c) the form and manner in which the particulars of the certificate of registration shall be entered in the records of the registering authority undersub-section (5) of section 41;

(d) the manner in which and the form in which the registration mark, the letters and figures and other particulars referred to in sub-section (6) of section 41 shall be displayed and shown;

[(da) providing for the period of validity of a certificate of registration under sub-section (7) of Section 41;]

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(p) any other matter which is to be, or may be, prescribed by the Central Government.

15. Section 65 of the MV Act reads as follows:

65. Power of State Government to make rules.- (1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter other than the matters specified in Section 64.

(2) Without prejudice to the generality of the foregoing power, such rules may provided for -

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16. It is clear from the aforementioned that, as per Section 64 of the MV Act, the Central Government is empowered to make rules regarding registration of vehicles. The power under Section 65 of the MV Act specifies that, the State Government is entitled to make rules for the purpose of carrying into effect various aspects except matters specified in Section 64 of the MV Act. The power enumerated under Section 65 of the MV Act do not entitle the State to make any Rules/stipulation regarding registration of vehilces. Under the circumstances, it is clear that the Transport Authorities of the State cannot in

any manner restrict the compliance in entirety of the Central Motor vehicles (twentieth Amendment) Rules, 2021 which has been issued vide notification dated 26.08.2021. Further, the MORTH having noticed that the same has not been implemented in certain States had issued a communication dated 02.12.2021 requesting implementation of the notification dated 26.08.2021. The MORTH is fully competent to issue such a communication as is evident from Article 256 of Constitution of India and it is incumbent on the Transport Authorities of the State to follow the same.

17. The benefits of implementing BH-Series registration was also envisaged by the Government of India, *inter alia*, that it avoided the cumbersome process of citizens bringing NOC from one State and apply for new registration mark in the other State and apply for refund of taxes from the previous State of transfer to another.

18. The apprehension of the State of Karnataka that, the private sector employees are working on contract

basis and are frequently changing from one company to another, is not a ground not to adhere to the Notification dated 26.8.2021 in its entirety. It is open to the officers/officials of the State Government to scrupulously scrutinize the documents, so that, the private sector employees who opt to register their vehicles under BH-Series registration satisfy the criteria as stipulated in the Notification dated 26.8.2021.

19. Further, with regard to the contention of the State Government that it would result in loss of revenue was also taken by the other State Governments in various other litigations and the said aspect was referred to Lok Sabha discussion dated 21.7.2022 in question No.738 regarding Bh-Series registration vehicles and it was answered by the Hon'ble Minister for Road Transport and Highways, Government of India, that even though the motor vehicles shall pay tax for a period of 2 years or in multiples of it, at 25% higher rate and the same being

remitted to respective State/Union Territory on-line and hence, there is no finance loss to the State exchequer.

20. The stand of the State Government in issuing *inter alia* notification bearing No.SaAa/Nondani-1/PR-412/2021-22 dated 20.12.2021 (Annexure-K to the Writ Petition) specifically excluding one class of persons i.e. *"employees of private sector organisations, which have their offices in four or more States/Union territories"* cannot in any manner be upheld having regard to the specific mandate of law as noticed above mentioned. The subsequent communication bearing No.TD 276 TDO 2021 dated 11.5.2022 and No. TD 276 TDO 2021 dated 4.8.2022 (Annexures-R1 and R2 to the Writ Petition respectively) also do not cover the said category of *"employees of private sector organisations, which have their offices in four or more States/Union territories"*. Hence, the same cannot be relied upon by the State Authorities in justification of their actions.

21. The Notification dated 26.8.2021, issued by the MORTH, Government of India, specifically deals with registration of vehicles and hence the Central Government is fully empowered to make Rule for matters provided under Section 64 of the MV Act. Hence, the attempt of the State Government to deviate from the Notification dated 26.08.2021, cannot be sustained.

22. Hence, the above question framed for consideration, is answered in the affirmative.

23. In view of the aforementioned, I pass the following:

ORDER

- i. The Writ Petitions are allowed;
- ii. The Notification bearing No.TC/Regn-1/PR-412/2021-22, dated 20.12.2021 issued by the Commissioner of Transport and Road Safety, Government of Karnataka, Bangalore, is quashed;
- iii. The Commissioner of Transport and Road Safety, Shantinagar - Respondent No.2 in

both the Writ Petitions, is directed to register the motor vehicle of the Petitioner in WP.No.683/2022, namely Toyota Fortuner Sigma IV (AT) from M/s Ravindu Royota, Victoria Road, Bangalore and the motor vehicle of the Petitioner in WP.No.2153/2022, namely metallic magma gray -Z7Q Maruti Wagon R XVI (O) 1L AGS-WAA4CVA car, having chassis number MA3JMT31SMF494697 and engine number K10BN8536497 from Varun Motors Pvt. Ltd., Maileshwaram, Bengaluru, forthwith as per the Notification dated 26.8.2021 under BH-Series, forthwith.

- iv. State Government is directed to implement the Central MV Act (20th Amendment) Rules, 2021 issued vide notification bearing No.G.S.R.594(E), dated 26.8.2021.

No costs.

**Sd/-
JUDGE**

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