

(2014) 08 P&H CK 0241

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 12025 of 2010 (O&M)

Mahabir Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: Aug. 1, 2014

Acts Referred:

- Motor Vehicles Act, 1988 - Section 207, 3, 39, 4, 66(1)

Citation: (2015) 178 PLR 728

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: Surender Saini, Advocate for the Appellant; Harish Rathee, Senior DAG, Advocate for the Respondent

Final Decision: Allowed

Judgement

K. Kannan, J.

The writ petition challenges the order purported to have been passed on 24.12.2008 cancelling the registration of the vehicle for false particulars alleged to have been given by the petitioner in his application for issue of registration certificate for a new vehicle purchased. According to the petitioner, he came to know about the alleged cancellation of the registration certificate only when the vehicle was seized on 09.01.2009 for alleged traffic violation for carrying more passengers than authorized while using it as a transport vehicle. It was only in the order issued on 27.01.2009 that reference to cancellation of permit was said to have been made on 24.12.2008. The vehicle is said to be in the custody of the State and the petitioner appears to have been allowed to drive the vehicle on behalf of the State.

2. The order issued on 24.12.2008 contains a fundamental flaw in referring to a show cause notice as alleged to have been given to the petitioner before cancellation of registration certificate. The order reads that the show cause notice was attempted to be served on the petitioner but it was returned as refused on

29.12.2008. I asked the State counsel to produce the file and I find that a notice issued to show cause against cancellation was attempted to be sent through registered post which bears postal endorsement of 6 or 7 beats before a return was made on 29.12.2008. If the postal return was only on 29.12.2008, an order could not have been passed even earlier on 24.12.2008 making reference to the alleged refusal of the petitioner to receive a show cause notice. Evidently, the order purported to have been passed on 24.12.2008 was prepared subsequently, that is, after the attempted action of the State to serve the show cause notice. The order would require to be quashed for the violation of principles of natural justice in not serving the show cause notice and purporting to cancel the certificate of registration.

3. The subsequent order of seizure of the vehicle for violation of terms of permit is sourced to the power u/s 207 of the Motor Vehicles Act. The said provision makes possible the seizure of the vehicle where a vehicle is run in contravention of the provisions of Sections 3, 4 or 39 or plying a vehicle without permit as required u/s 66(1). Section 3 contains the licence requirements and Section 4 contains a reference to the age limit of the driver. Section 39 makes reference to necessity for registration and it is nobody's case that the vehicle was not registered. It was a case of registration being cancelled subsequently. I have already held that cancellation of licence was done in violation of the principles of natural justice and observed earlier that such cancellation was invalid in law. The violation of permit u/s 66(1) would, in this case, mean carrying passengers more than the sanctioned authorized number. It is possible to effect a seizure on such a basis, but the seizure effected has stood far too long to be sustained any longer. I quash the order of seizure as of now and direct the release of the vehicle to the petitioner.

4. The State will be competent to conduct independent action for cancellation of registration for alleged disclosure of wrong particulars as regards the place of residence and other details necessary for securing registration certificate for the owner. The petitioner has a case that the dealer had connived with the transport authorities to fake residence details to sell the car and obtain registration. Since there were some pollution control norms in place within the national capital city of Delhi and the particular vehicle did not conform to such norms, he would contend that he was himself not aware of the difficulty or impermissibility of plying such a vehicle within the capital city. I will not go into the tenability or otherwise of the defence of the petitioner about how the wrong particulars were purported to have been submitted to the RTA for obtaining registration. The future course of action by the State will consider his defence and appropriate decision will be made.

5. The impugned orders are quashed and the vehicle is directed to be released to the petitioner. Any action for cancellation of registration certificate or for submission of alleged false particulars will be dealt with after joining the petitioner in an appropriate enquiry after a show cause notice and after affording to the

petitioner an opportunity to state his case before a final decision is taken.

6. The writ petition is allowed on the above terms with liberty to the State as aforesaid.