

I/102507/2022

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Dated: **29-12-2022**

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Transport Commissionerate, 2<sup>nd</sup> Floor, Trans Towers, Vazhuthacaud,  
Thycaud P.O, Thiruvananthapuram - 695 014

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From

Transport Commissioner,  
Thiruvananthapuram

To

All Registering Authorities

Sir,

Sub:- Motor Vehicles Department- Direction Issuing- Order in WP(C) No  
40644 OF 2022 dated 19.12.2022

Ref:- Order dated 19.12.2022 in NO . 40644 OF 2022 of Hon High  
Court of Kerala

All Registering authorities are directed to comply the order dated 19.12.2022 in  
WP(C) 40644/2022 of High Court of Kerala

Your's Faithfully

**K MANOJKUMAR**  
**SR. DEPUTY TRANSPORT COMMISSIONER (TAX)**

Copy to: Liaison Officer MVD at AG Kerala,Ernakulam

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മോട്ടോർ വാഹന വകുപ്പ്, കേരളം

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

MONDAY, THE 19<sup>TH</sup> DAY OF DECEMBER 2022 / 28TH AGRAHAYANA, 1944

WP(C) NO. 40644 OF 2022

**PETITIONER:**

PRAVEEN KUMAR, AGED 51 YEARS,  
S/O. K KRISHNANKUTTY NAIR,  
MANAGING DIRECTOR,  
BRIO BUSINESS MANAGEMENT PRIVATE LIMITED,  
OPP. CIAL, 3RD FLOOR,  
XI/728, VADAKKANETH ARCADES, NEDUMBASSERY,  
ERNAKULAM, PIN - 683572

BY ADVS. SHABU SREEDHARAN  
SIDHARTHAN V.K.  
THAYYIB SHA P.S.  
THANIMA S.  
S.DHEERENDRAKUMAR  
ABDUL HAMEED (NALAKATH)

**RESPONDENTS:**

- 1 THE SUB REGIONAL TRANSPORT OFFICER  
(REGISTRATION AUTHORITY), ANGAMALY  
OFFICE OF THE SUB REGIONAL TRANSPORT OFFICER,  
MINI CIVIL STATION COMPLEX,  
ANGAMALY, ERNAKULAM, PIN - 683572
- 2 KL07-GMA PINNACLE AUTOS PVT. LTD.  
REPRESENTED BY ITS MANAGER,  
ALUVA - FIAT CHR.,  
NH, OPP. MUTTOM METRO YARD,  
THAIKKATTUKARA P.O., KALAMASSERY,  
ERNAKULAM, PIN - 683106

BY ADV. SRI. JIMMY GEORGE, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
19.12.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

This is a classic case of highhandedness at the hands of the transport officers issuing oral instructions to the dealers not to release the new vehicles with temporary registration number, who have opted for buying the fancy numbers in open public auction. Petitioner purchased brand new Jeep New Compass Model S(O2)AT from respondent No.2 dealer for a valuable consideration. Said vehicle was, as per the provisions of Section 43 of the Motor Vehicles Act (hereinafter referred to as the 'Act', for short), issued a temporary certificate as he opted to buy the fancy number .

2. Learned counsel for the petitioner submits that the dealer is not releasing the vehicle owing to the directions and order of the RTOs not to release the vehicle until and unless the vehicle is assigned a registration number. An amount of Rs.5,84,640/- as tax, valid from 03.11.2022 to 30.09.2037 has already been paid vide Ext.P1. The vehicle also have the insurance policy as evident from Ext.P2.

3. Issue notice before admission. Mr.Jimmy George, learned Government Pleader accepts notice and submits that owing to the order of this Court dated 23.11.2022 in Writ Petition (C)No.37193 of 2022,

the officers are in predicament as to whether they are to release the vehicles with temporary registration number where the owner of the vehicle has opted for participating in the open bid as per the provisions of Rule 95 of the Central Motor Vehicles Rules, 1989 (hereinafter referred to as the 'Rules', for short).

4. This case was taken up in the pre-lunch session when the learned Government Pleader sought time to adjourn the matter to the post-lunch session for obtaining instructions with regard to the release of the vehicle. On instructions, this Court has been informed that no separate government order has been received to release the vehicles with temporary registration number.

5. I have heard learned counsel for the parties and appraised the paper book.

6. Section 41 of the Act with amendment provides the procedure for registration of the vehicles. Proviso 2 for non-release of the vehicles without the registration mark by the dealer was inserted by Act No.32 of 2019 whereas Section 43 of Act dealing with the temporary registration was also substituted by Act No.32 of 2019. The same reads as under:

“43. Temporary registration.—

(1) Notwithstanding anything contained in section 40 the owner of a motor vehicle may apply to any registering authority or other prescribed authority to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark.

(2) A registration made under this section shall be valid only for a period not exceeding one month, and shall not be renewable: Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted 1[with a body or any unforeseen circumstances beyond the control of the owner], the period may, on payment of such fees, if any, as may be prescribed, be extended by such further period or periods as the registering authority or other prescribed authority, as the case may be, may allow.

2[(3) In a case where the motor vehicle is held under hire-purchase agreement, lease or hypothecation, the registering authority or other prescribed authority shall issue a temporary certificate of registration of such vehicle, which shall incorporate legibly and prominently the full name and address of the person with whom such agreement has been entered into by the owner.]”

The authorities are not implementing the provisions of the Act

cumulatively but have been reading the provisions of Section 41 in isolation. Section 43 of the Act starts with a non-obstanti clause therefore respondents in stricto sensu cannot direct the dealer for not releasing the vehicle with temporary registration number. Once the tax has been deposited the registration number of choice would be allocated as per the provisions of Rule 94 of the Rules as and when the new series are declared, all the RTOs in the State of Kerala cannot issue a mandate to the dealers for not releasing the vehicle with temporary registration. It is not necessary that all vehicle owners would be opting for a number of their choice always as the numbers are being purchased on a substantial price. The legislature has intentionally incorporated the provisions in section 43 keeping in view the other provisions in the Rules giving option to the buyers to participate in the bidding process for buying fancy numbers.

In this view of the matter, I allow the writ petition and direct the respondent No.1 to issue directions to respondent No.2 to release the vehicle immediately when the vehicle in question has been allotted the temporary registration. This is the second case of such nature which came to this Court. Keeping in view the stand of the

respondents and to prevent multiple litigations of such kind, I also issue directions to the Secretary, Transport Department to issue directions immediately to all the RTOs not to issue any mandate to dealers for releasing the vehicle with temporary registration number valid for a particular period, where the purchasers opt to buy the fancy numbers strictly as per Rule 95 of the Rules. Let these directions be issued on receipt of the copy of the judgment forthwith and in case the affected parties are being impelled to approach this Court for similar directions, this Court may be constrained to impose cost to be recovered from their personal salary.

Sd/-

**AMIT RAWAL**  
**JUDGE**

**APPENDIX OF WP(C) 40644/2022**

**PETITIONER EXHIBITS**

- Exhibit-P1 THE TRUE COPY OF THE TAX TOKEN ISSUED FROM THE MOTOR VEHICLES DEPARTMENT FOR THE PERIOD FROM 3.11.2022 TO 30.9.2037
- Exhibit-P2 THE TRUE COPY OF THE INSURANCE POLICY OF THE HDFC ERGO GENERAL INSURANCE CO. LTD. FOR THE PERIOD FROM 2.11.2022 TO 1.11.2025
- Exhibit-P3 THE TRUE COPY OF THE CERTIFICATE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER
- Exhibit-P4 THE TRUE COPY OF THE ORDER OF THIS HON'BLE COURT IN WP(C) NO. 37193/2022 DATED 23.11.2022