

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

Wednesday, the 23rd day of November 2022 / 2nd Agrahayana, 1944
WP(C) NO. 37193 OF 2022 (Y)

PETITIONER:

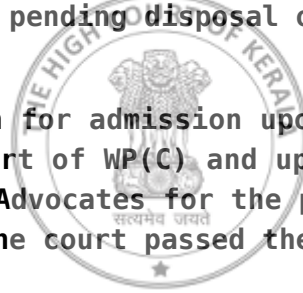
PRAICY JOSEPH, W/O. JOY GEORGE, 74/696, PAZHAMPILLY THOMAS ROAD,
VADUTHALA, VADUTHALA S.O., ERNAKULAM, KERALA-682023.

RESPONDENTS:

1. REGIONAL TRANSPORT OFFICER (REGISTRATION AUTHORITY), ERNAKULAM,
OFFICE OF THE REGIONAL TRANSPORT OFFICER, CIVIL STATION,
ERNAKULAM-682030.
2. INCHEON MOTORS PRIVATE LIMITED, B.NO.3037-B, NH-66 BYPASS, NEAR
MAYILALATH TEMPLE, EDAPPALLY P.O., ERNAKULAM-682024.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue an interim direction directing the respondents to deliver to the petitioner herein the vehicle covered by Exhibit P2 temporary certificate of registration, pending disposal of the writ petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.P.DEEPAK & NAZRIN BANU, Advocates for the petitioner and of GOVERNMENT PLEADER for R1 (By order), the court passed the following:



P.V.KUNHIKRISHNAN, J-----
W.P.(C) No. 37193 of 2022
-----Dated this the 23rd day of November, 2022**O R D E R**

“What can you do to promote world peace. Go home and love your family.” These are the words of mother Teresa. Families are like branches on a tree. We grow in different directions yet our roots remain as one. Family is also like music, some with high notes and some with low notes but always makes a beautiful song.

2. in this case, the petitioner purchased a brand-new motor car (KIA-CARENS) from the second respondent, who is the authorised distributor for KIA MOTORS. The Number '5252' is the favorite number of the petitioner because it was the number of her old vehicle. The number of the vehicles of her loving husband and daughter is also '5252'. The petitioner intends to get 'KL-07-DA-5252' which would be available for bidding only

after three months in the light of Rule 95 of The Kerala Motor Vehicle Rules 1989 (for short the 'Rules, 1989'). The petitioner purchased the vehicle and paid one time motor vehicle tax and also took out an insurance policy. Ext P1 is the tax invoice issued by the second respondent, Ext P2 is the temporary certificate of registration issued to the petitioner, Ext P3 is the E-Receipt showing the payment of one time motor vehicle tax and Ext P4 is the insurance policy taken by the petitioner from 9.11.2022 to 8.11.2025. The grievance of the petitioner is that after purchasing the vehicle and paying all the amount due to the dealer and other statutory authorities, the vehicle is not delivered due to the instructions from the 1st respondent, The Regional Transport Officer (Registering Authority, Ernakulam) that the vehicle cannot be plied using a temporary registration number. Hence, this writ petition.

3. Heard the counsel for the petitioner and the Government Pleader, who appeared for the 1st respondent.

4. After hearing both sides, I am of the prima facie opinion

that the stand taken by the 1st respondent is sheer injustice to the petitioner. Section 43 of the Motor Vehicles Act 1988 (for short the 'Act, 1988') provides for temporary registration of a motor vehicle. The above Section was substituted with effect from 1.4.2021 as per Act 32 of 2019. Ext P2 temporary certificate for registration was issued to the petitioner under the Act, 1988. An application for temporary certificate of registration is to be made in Form 20 appended to the Central Motor Vehicles Rules, 1989. According to the 1st respondent, the vehicle cannot be delivered to the petitioner until it is registered, i.e. permanently registered. The respondents are relying on the 2nd proviso to Section 41(1) of the Act, 1988. The proviso to Section 41(6) of the Act, 1988 states that in case of a new motor vehicle, the application for the registration of which is made under the second proviso to sub-section (1) of Section 41, such motor vehicle shall not be delivered to the owner until such registration mark is displayed on the motor vehicle in such form and manner as may be prescribed by the Central Government. The 2nd proviso

to Section 41 of the Act, 1988 states that in case of new motor vehicle, the application for registration in the State shall be made by the dealer of such motor vehicle, if the new motor vehicle is being registered in the same State in which the dealer is situated.

5. A reading of Section 43 of the Act, 1988 will show that the temporary certificate of registration also carries a registration mark which is prescribed by the Central Government under Rule 53C of the Central Motor Vehicles Rules, 1989. In other words, the term 'registration' employed in the two provisos quoted above clearly takes within its ambit a temporary certificate of registration as well. Moreover, as per Rules 47 of the Central Motor Vehicles Rules, 1989 an application for registration, i.e. permanent registration of a motor vehicle shall be in Form 20 and shall be accompanied by temporary registration, if any. Therefore, a combined reading of the provisions referred above prima facie shows that the dealer can deliver a new motor vehicle to the owner on the strength of a temporary certificate of

registration issued under Section 43 of the Act 1988, after assigning a temporary registration mark under Rule 53C of the Central Motor Vehicle Rules, 1989.

6. Admittedly, the petitioner has got a right to participate in the bid for getting the number of her choice as per Rule 95 of the Rules, 1989. The number of her choice is available only after three months. In other words, those who purchased a vehicle and obtained a permanent registration number can ply their vehicle immediately and those who purchased the vehicle and want a fancy number as per Rule 95 of the Rules, 1989 have to wait indefinitely. This in my opinion, is a prima facie discrimination. The petitioner is entitled to participate in the bid as per Rule 95, but he cannot ply the vehicle even after paying the entire consideration, tax and obtaining insurance policy. I think the petitioner made out a prima facie case. This Court appreciates the family bonding the petitioner has with her family for getting their favorite number to her vehicle.

Therefore, there will be a direction to the 1st respondent to issue appropriate direction to the 2nd respondent within three days from the date of receipt of this order to the effect that the vehicle purchased by the petitioner as per Ext P1 can be delivered to the petitioner based on the temporary permit of registration certificate as evident by Ext P2 and petitioner can ply the vehicle based on Ext P2 temporary permit.

Hand over.

cms



Sd/-
P.V.KUNHIKRISHNAN,
JUDGE

APPENDIX OF WP(C) 37193/2022

- Exhibit P1** A TRUE COPY OF THE TAX INVOICE DATED 10.11.2022.
- Exhibit P2** A TRUE COPY OF THE SAID TEMPORARY CERTIFICATE OF REGISTRATION VALID TILL 10.5.2023.
- Exhibit P3** A TRUE COPY OF THE E-RECEIPT DATED 11.11.2022.
- Exhibit P4** A TRUE COPY OF THE POLICE OF INSURANCE VALID FROM 9.11.2022 TO 8.11.2025.



