

C3/22060/TC/2014

Transport Commissionerate
Kerala, Thiruvananthapuram
Dated: 22.12.2014

From

The Transport Commissioner
Thiruvananthapuram.

To

All Regional Transport Officers
All Joint Regional Transport Officers

Sir,

Sub:- M.Vs.Dept -Registering "Mahindra Bolero Camper Gold"-Judgment of
Hon. High Court forwarding of -reg-

Ref:- Judgment in WP© No: 25484/2014 dated 30.09.2014.

Your personal attention is invited to the reference cited, In this connection I am forwarding the copy of the above judgment and you are directed to adopt this judgment, when similar cases appears. This is for your information.

Yours faithfully,

Sd/-

Joint Transport Commissioner
For Transport Commissioner

Approved for Issue

Senior Superintendent


22/12/2014
20/12/14

K. VINOD CHANDRAN, J.

=====
W.P.(C) No.25484 of 2014 - I

=====
Dated this the 30th day of September, 2014

J U D G M E N T

The petitioner is the owner of a Mahindra Bole Camper Gold. When the petitioner approached the respondent authorities for registration of the vehicle as a Light Motor Vehicle Motor car, the respondent 2 and 3 have taken a stand that the said vehicle cannot be registered as a LMV Motor Car, but only as a passenger-cum-goods Vehicle. The petitioner contends that he does not intend to use the vehicle as a Goods Carriage transport vehicle and he purchased the same for the purpose of using it for his personal use and for his farming and business activities.

2. It is the contention of the petitioner that a representation dated 17.09.2014 was filed before the 3rd respondent for

longer *res integra* in view of the authoritative pronouncement of this Court in *Cheriyam v. Transport Commissioner* [2009 (2) KLT 583].

3. In *Cheriyam's case (supra)* this Court had declared that with respect to vehicles which are constructed and adapted for carriage of goods and carriage of passengers, the primary aspect to be considered is the use to which it is put. It was also declared that if the vehicle in question is a Light Motor Vehicle, then the registration ought to be granted in that category and not as a goods carriage, if it is not intended to be used as a goods carriage. It was also clarified that if at all the vehicle was used other than for the purpose for which it was registered, then it was open to the authorities to re-classify the vehicle as a Transport Vehicle.

4. However, in the present case, the petitioner proclaims himself to be an agriculturist and a businessman.

with his agricultural and business activities'(sic). In the above circumstance, the definition of 'goods carriage' and 'transport vehicle' in sub sections 14 and 47 of Section 2 of the Motor Vehicles Act, 1988 assumes significance.

(14) "Goods carriage" means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods:

(47) "Transport vehicle" means a public service vehicle, a goods carriage, an education institution bus or a private service vehicle.

5. Hence though the present vehicle is not a motor vehicle constructed or adapted for use, solely for the

petitioner intends to put the vehicle is for his agricultural and business activities. However, on the facts disclosed from the averments in the instant writ petition and the specific case of the intended use of the vehicle; is to put it for use in farming activities, neither *Cheriyans case* (*supra*) nor Ext.P8 is applicable.

The writ petition, hence is dismissed. No costs.

Sd/-
K. VINODCHANDRAN,
JUDGE

SB

// True Copy //

P.A To Judge.

✓