

PROCEEDINGS OF THE DEPUTY TRANSPORT COMMISSIONER
(SOUTH ZONE) THIRUVANANTHAPURAM
(Present: E S James)

Sub:- Motor Vehicles Department – Registration of a newly delivered Swaraj Mazda Prestige Bus – Appeal filed against the order of Registering Authority, Thiruvananthapuram – Rejection orders issued – reg.

Ref:- Appeal No.32/2012 filed by (1) Sri. Vincent, Sabu Bhavan, Thekkekara Veedu, Kodunganoor – P O, Thiruvananthapuram and (2) Sri. Santhosh S Valsalam, Director, Nirmala Automobiles Pvt. Ltd., UP.14/520, Station Road, Mannanthala, Thiruvananthapuram.

ORDER No.C/2401/SZ/12 DATED 29.10.2012

Sri. Vincent, Sabu Bhavan, Kodunganoor had been delivered with a Swaraj Mazda Prestige Bus of wheel base 3335 mm with Chassis No.MBUWEL 4XLAO165705 and Engine No.SLT3LA159248 by Nirmala Automobiles (P) Ltd., Mannanthala, Thiruvananthapuram on 19.05.2012. The class of vehicle was LMV (Contract Carriage Bus) of make SML IZUZU LTD with seating capacity 17 in all. This vehicle was produced for inspection, prior to the registration, on trade certificate held by the seller, before the inspector of Motor Vehicles, RT Office, Thiruvananthapuram on 19.05.2012. Sri. D Deepu, Asst. Motor Vehicles Inspector has reported the following objections for registration. (1) The main two longitudinal chassis beams are seen extended by welding two 350mm metal 'C' frame and the body is seen with longitudinal extension of 460mm from the rear end of main chassis beam. (2) Form 22 attached to the application for registration is printed on a paper from Kelvin forms Thiruvananthapuram and seen signed by black pen as against to be facsimile as mentioned in Central Motor Vehicles Rules 1989. (3) As per the Form 21, the vehicle is a factory built one, but on inspection, some features don't tally with the prototype approval. (4) The vehicle is fitted with Emergency Exit by the right hand side rear end. (5) No luggage space and door is provided with. (6) Overall length is found as 6330mm and rear overhang as 1951mm. The vehicle was re-inspected by Sri. R. Rajeev, MVI, a senior and experienced officer, on 08.06.2012 and he has agreed with the findings of the primary inspecting officer. The Registering Authority, Thiruvananthapuram, rejected the application for registration vide

proceedings No.R5/87806/2012 dated 06.05.2012. Aggrieved with the order of Registering Authority, Thiruvananthapuram, the purchaser and seller of the vehicle filed writ petition No.19478 of 2012, before the Hon'ble High Court of Kerala. The Hon'ble Court had disposed of the petition directing the appellate authority to consider and dispose of the appeal within a period of one month there after, as if the appeal is filed within time. So, the appellants preferred appeal on 03.10.2012.

The appeal was taken into file and the appellants were issued with notices for hearing scheduled on 16.10.2012. They were directed to produce the vehicle also on 16.10.2012 before the team of Inspectors of Motor Vehicles, attached to the flying squad, Deputy Transport Commissioner's Office, South Zone, Thiruvananthapuram.

Adv. Prasad Chandran (Reg. No.K174/99), the learned counsel, represented the appellants, has appeared on 16.10.2012 and heard. He has submitted that the action of Registering Authority, Thiruvananthapuram, rejecting the application for registration filed by the appellant is against law. He has further submitted that all relevant documents have been submitted with and the vehicle is the one approved by the authorised testing agency as mentioned in S.126 of MV Act 1988. His contention is that no separate approval of Transport Commissioner is required for the registration of a vehicle, if it is approved by the authorised testing agency. He has further contended that the registering authority's mention in the proceedings about the extension of the chassis by 460mm at rear end is incorrect because the Registering Authority himself has explained it as 350mm, in the counter affidavit submitted to the Hon'ble Court. The learnt counsel also denied the allegation that the chassis long member is extended with a 'C' type frame because both the pieces are of the same metal. He has claimed that there is no change in any dimension, as approved by the testing agency VRDE, Ahmednagar. He has continued that the emergency exit fitted with the vehicle by rear right side of the vehicle is permissible in accordance with Rule 128(4) of CMV Rules 1989 and expressed his readiness to rebuild the body with emergency exit at the rear side, if required by any provision related to KMV Rules 1989.

The following facts have been revealed in the counter affidavit filed before the Hon'ble High Court of Kerala, in WP(C) No.19478 of 2012 by Sri. R. Rajeev, Motor Vehicles Inspector, on behalf of the 1st respondent, RTO, Thiruvananthapuram.

- (1) The approval of Transport Commissioner is not necessary if a vehicle conforms to the certificate issued by the authorised testing agency, as mentioned in Rule 126 of CMV Rules 1989.
- (2) Signature of the authorised signatory in Form-22 is done with a black pen instead of facsimile signature.
- (3) The features of the produced vehicle don't tally with the prototype Approval Certificate issued by the Central Testing Agency.
- (4) The Inspector of Motor Vehicles found on inspection of the vehicle that both the two main chassis beams (longitudinal) are seen extended by welding two 350mm metal 'C' frame. The body was extended to 460mm from the rear end of the main chassis beam longitudinal. The inspection report been so, the submission made by the petitioner that the actual parameters of the vehicle are in tune with the prototype approval certificate, is purely incorrect.
- (5) As per the prototype approval certificate, the total length of the vehicle is 6380mm, as against 6330mm found with the vehicle.
- (6) The rear overhang shown in the prototype test is 2001mm, as against 1951mm found with the vehicle.
- (7) In the prototype certificate, the emergency door is shown at the middle of the rear portion of the vehicle, but it is provided at the rear right hand side of the vehicle.
- (8) Luggage space is provided in the prototype certificate, but not provided with the produced vehicle.
- (9) Form-22 produced is printed on a paper issued from KELVIN FORMS, Thiruvananthapuram. Hence its genuineness is suspected.

Sri. R Rajeev, MVI has respectfully submitted to the Hon'ble High Court of Kerala, based on the above facts that the body was built over the chassis, after the vehicle was rolled

out of the factory as chassis, in violation to the parameters prescribed in the approval.

The vehicle was inspected by a team of inspectors of Motor Vehicles comprised of (1) Sri. C S Santhosh Kumar, MVI (2) Smt. Brinda Sanil, AMVI and (3) Sri. Praveen Ben George, AMVI. The findings of the team are described below.

- (1) Both the longitudinal chassis members are extended to 350mm, by welding with extra piece. Four seats at the rear of the vehicle are seen fitted over this extended portion.
- (2) There are so many chances for bending at the welded portion, while the vehicle passes through rough road, bumps or dips.
- (3) The vehicle is not provided with a door for the co-driver, by the left side at front end. The co-driver has to cross the engine portion to occupy the seat only through the common door.
- (4) No approval is found for this variant (17 seater vehicle).

SML IZUZU Ltd. (formerly Swaraj Mazda Ltd.), Siva pournamy, Changampuzha nagar – P O, South Kalamassery, had applied for approval for registration of the 27 variants of Swaraj Mazda Prestige Bus, on 09.07.2011. This application had been included with the certificate No.TE/06/045/CMVR/1145 dated 16.05.2006 of Vehicles Research and Development Establishment (VRDE), Ahmednagar. The list of variants has been attached to the application as annexure-II, in which variants from 14 to 22 (both inclusive) are of wheel base 3335mm. None of the above variants is certified by the authorised testing agency, CRDE, Ahmednagar, as 17 seated.

On verification of the specification of the 27 variants, as per the page No.6 of 31, Appendix-I of the approval certificate, the following are the specifications of the variants from serial number 14-22, having wheelbase of 3335mm

Sl. No.	Wheel Base	Width	Length	O/Ht	Over Hang		GVW	FAW	RAW	Seating Capacity
					Front	Rear				
14	3335mm	2000	6219	1560	1044	1840	6440	2360	4080	27 in all
15	3335mm	2100	6219	2725	1044	1840	6440	2360	4080	27 in all
16	3335mm	2100	6219	2725	1044	1840	6440	2360	4080	21 in all

17	3335mm	2100	6219	2725	1044	1840	6440	2360	4080	19 in all
18	3335mm	2100	6380	2725	1044	2001	6440	2360	4080	27 in all
19	3335mm	2100	6219	2725	1044	1840	6440	2360	4080	23 in all
20	3335mm	2100	6380	2345	1044	2001	6440	2360	4080	15 in all
21	3335mm	2200	5974/ 6379	2850/ 2996	1044	1595/ 2000	6440	2360	4080	21 in all
22	3335mm	2200	5954	2845	1044	1575	6440	2360	4080	23 in all

As per the sale certificate in Form-21, issued by Nirmala Automobiles (P) Ltd., Thiruvananthapuram dated 19.05.2012, the specifications of the vehicle delivered are as follows.

Cubic Capacity - 3455cc
 Unladen weight - 3520 kg
 Front axle weight - 2360 kg
 Rear axle weight - 4080 kg
 Gross vehicle weight - 6440 kg

The Vehicle produced by the appellants are of overall length 6330mm, as against 6380mm certified, and Rear over hang of 1951mm as against 2001 certified by the authorised testing agency. As per the approval, no vehicle is certified with 17 in all seating capacity. As per the approval certificate there are only two variants with overall length 6380mm and rear over hang 2001mm which are approved with seating capacity 27 in all and 15 in all (Sl. No.18 and 20). No variant with the same dimensions has been included in the list of variants with 17 in all seating capacity. In addition to this there is no variant with curb weight 3520 kg and seating capacity 17 in all, in the list of the 27 variants (page 6 of 31), attached to the certificate of approval. Hence it is evident beyond any doubt that the produced vehicle is not the one approved by the testing agency, CRDE, Ahmednagar.


The team of inspectors of Motor Vehicles, who inspected the vehicle in connection with the appeal proceedings, have taken photographs of the welded portion of the chassis of the

vehicle. It is clear from the photographs that the joint is made after getting the vehicle certified by the authorised testing agency.

S.44 of MV Act 1988 specifies that a registering authority shall satisfy itself that the particulars contained in the application for registration of a vehicle and that the vehicle complies with the requirements of MV Act 1988 and rules made there under. S.45 of MV Act 1988 mentions that a registering authority may by order refuse to register any motor vehicle if it fails to comply with the requirements of MV Act 1988 or rules made there under.

A joint reading of the findings of primary inspecting officer, the secondary inspecting officer, the team of inspectors of motor vehicles conducted inspection related to the appeal application and the specifications of the certificate issued by the authorised testing agency, CRDE, Ahamednagar, it is proved that the vehicle in appeal is not conforming to the standards prescribed by the testing agency. Hence it is evident that the action of the registering authority, Thiruvananthapuram, rejecting the application for registration is with merits and substances.

In the powers conferred to me under S.57 of MV Act 1988, the order of registering authority, Thiruvananthapuram vide No.R5/87806/T/12 dated 15.06.2012 is upheld and the appeal is rejected.


DEPUTY TRANSPORT COMMISSIONER
SOUTH ZONE, THIRUVANANTHAPURAM
(APPELLATE AUTHORITY)

To

1. Appellant
2. The Regional Transport Officer, Thiruvananthapuram