



2023:KER:74838

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

TUESDAY, THE 21ST DAY OF NOVEMBER 2023 / 30TH KARTHIKA, 1945

WP(C) NO. 30776 OF 2023

PETITIONER:

S.SADANANDA NAIK,
AGED 55 YEARS

BY ADVS.
T.S.HARIKUMAR
P.B.SAHASRANAMAN

RESPONDENTS:

- 1 THE MINISTRY OF ROAD TRANSPORT & HIGHWAYS,
TRANSPORT BHAVAN, PARLIAMENT STREET, NEW DELHI-110 001
REPRESENTED BY ITS SECRETARY.
- 2 THE SECRETARY,
DEPARTMENT OF TRANSPORT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.
- 3 THE TRANSPORT COMMISSIONER,
8TH FLOOR, B-BLOCK, CIVIL STATION, KUDAPPANAKUNNU,
THIRUVANAMTHAPURAM, PIN - 695 043.

BY ADV M JAYAKRISHNAN VAZHOOOR

OTHER PRESENT:

JOBY JOSEPH-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



DINESH KUMAR SINGH, J.

WP(C) NO. 30776 OF 2023

Dated this the 21st day of November, 2023

J U D G M E N T

1. The present writ petition has been filed impugning the notification G.O.(Rt)No. 353/2022/TRANS dated 22.08.2022 issued by State Government of Kerala prescribing the validity period and fee for Pollution Under Control (PUC) Certificates for various categories of vehicles including two wheeler and three wheeler.

2. The limited ground on which the said Government Order has been challenged before this Court is that the said Government Order is in violation to the statutory rules permitted by the Central Government under Central Motor Vehicles Rules, 1989 in exercise of its powers under Sub



Section 14 of Section 88, Sections 110, 137, 164, 208 and 211 of the Motor Vehicles Act, 1988.

3. The emission of smoke, vapour etc. from motor vehicle is regulated under Rule 115 of the Central Motor Vehicles Rules, 1989. Under the said rule, the emission norms for various categories of the vehicles have been prescribed including the validity of PUC Certificates in respect of each category of vehicle.

4. Sub Rule 7 of Rule 115 prescribes, after expiry of a period of one year from the date on which the motor vehicle was first registered, every such vehicle shall carry a valid Pollution under Control (PUC) Certificate issued by an agency authorised for this purpose by the State Government. The validity of the said PUC certificate shall be for six months. However, in respect of the vehicles manufactured under BS-IV



or BS-VI norms, the validity of the PUC Certificate could be one year. The said Sub Rule 7 of Rule 115 is extracted hereunder.

“(7) After the expiry of a period of one year from the date on which the motor vehicle was first registered, every such vehicle shall carry a valid ‘Pollution under control’ certificate issued by an agency authorised for this purpose by the State Government. The validity of the certificate shall be for [six month] and the certificate shall always be carried in the vehicle and produced on demand by the officers referred to in sub-rule (1) of Rule 116.”

5. From the perusal of the said Rule it is evident that the Motor Vehicle manufactured under BS-IV or BS-VI norms, the validity of PUC Certificate is for a period of 12 months.

6. The learned counsel for the petitioner



submits that the petitioner's vehicle is BS-IV vehicle and therefore, the validity of the PUC certificate shall for a period of 12 months from the date of registration. The impugned notification, however, has failed to note distinction as prescribed under Sub Rule 7 of Rule 115 and sought prescribed validity of PUC for six months uniformly for the all vehicles whether manufactured under BS-IV or BS-VI norms.

7. The learned counsel for the petitioner, therefore, submits that the prescribing six months limitation period for validity for PUC Certificate is ultravires to the statutory prescription of Sub Rule 7 of Rule 115 of the Central Motor Vehicles Rules, 1989 and to that extent the said notification is liable to be quashed.

8. Sri. Joby Joseph, learned Government Pleader does not have any answer to the said



contention that the Central Motor Vehicles Rules prescribes the life span of PUC as 12 months irrespective of motor vehicles manufactured under BS-IV or BS-VI norms.

9. It is well stated that executive order cannot overwrite the statutory prescription under the Act or Rules made thereunder. I find that the impugned Government notification so far as lying down for all categories of vehicles irrespective of whether manufactured under BS-IV or BS-VI norms six months validity for PUC is in violation of the statutory prescription under Sub Rule 7 of Rule 115.

10. Therefore, the present writ petition is allowed and the impugned notification G.O.(Rt)No. 353/2022/ TRANS dated 22.08.2022 issued by State Government of Kerala, to that extent prescribing uniform period of validity of PUC given



for BS-IV or BS-VI vehicle is set aside. It is made clear that in respect of the vehicles which are manufactured under BS-IV or BS-VI categories, validity of their PUC shall be for a period of 12 months from the date of registration.

**Sd/-
DINESH KUMAR SINGH
JUDGE**

rpr



APPENDIX OF WP(C) 30776/2023

PETITIONER'S EXHIBITS

- Exhibit P.1 TRUE PHOTOSTAT COPY OF THE CERTIFIED COPY OF THE CERTIFICATE OF REGISTRATION OF THE VEHICLE KL-43 K 9447.
- Exhibit P.2 TRUE PHOTOSTAT COPY OF THE REPLY SUBMITTED BY THE HON'BLE MINISTER OF ROAD TRANSPORT AND HIGHWAY IN THE LOK SABHA DATED 26-07-2021.
- Exhibit P.3 TRUE PHOTOSTAT COPY OF THE POLICY INFORMATION RELEASE MADE BY THE 1ST RESPONDENT DATED 22-07-2021.
- Exhibit P.4 TRUE PHOTOSTAT COPY OF THE INSTRUCTIONS GIVEN BY THE 1ST RESPONDENT TO ALL STATE GOVERNMENTS AND UNION TERRITORIES DATED 30-07-2021.
- Exhibit P.5 TRUE PHOTOSTAT COPY OF THE ORDER OF THE 2ND RESPONDENT VIDE G.O(RT).NO. 353/2022/TRANS DATED 22-08-2022.
- Exhibit P.6 TRUE PHOTOSTAT COPY OF THE PUCC ISSUED TO THE VEHICLE WITH REGISTRATION NUMBER KL-43 K-9447 DATED 22-06-2023.
- Exhibit P.7 TRUE PHOTOSTAT COPY OF THE COMMUNICATION ISSUED BY THE ARAI TO THE 3RD RESPONDENT DATED 28-06-2021.