



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

FRIDAY, THE 22<sup>ND</sup> DAY OF DECEMBER 2023 / 1ST POUSHA, 1945

WA NO. 1756 OF 2023

AGAINST THE JUDGMENT DATED 25.09.2023 IN WP(C)

NO.16045/2023

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APPELLANT :

SASEENDRAN, AGED 56 YEARS,  
S/O.UKKANDAN, PANTHEERADIYIL HOUSE,  
PUTHOOR P.O., OMASSERY VIA, KODUVALLY,  
KOZHIKODE DISTRICT, KERALA, PIN - 673572.

BY ADVS.  
P.SIVARAJ  
MEGHA.M.S.  
M.MEHAR FARSANA

RESPONDENTS :

- 1 THE JOINT REGIONAL TRANSPORT OFFICER (RTO),  
KL 57 SRTO, KODUVALLY, KOZHIKODE, PIN - 673672.
- 2 SHEEJA GOPAL V.P., AGED 53 YEARS,  
W/O. RAMESH C.P., SREE SHEEBA SADANAM,  
S.K.LANE, PERINTHALMANNA, MALAPPURAM DISTRICT,  
PIN - 679322.

BY ADV.GANGADAS A.R.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 22.12.2023,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



## JUDGMENT

### A.Muhamed Mustaque, J.

The point that arises for consideration in this appeal is whether the Motor Vehicles Department is justified in blacklisting a tanker lorry consequent upon the dispute between the registered owner and the appellant herein.

2. The learned Government Pleader submits by virtue of the provisions under Rule 139 of the Central Motor Vehicles Rules, 1989, the authority is competent to black list any vehicle. It is appropriate to refer to Rule 139, which reads thus:

*“139. Production of licence and certificate of registration.—The driver or conductor of a motor vehicle shall produce certificate of registration, insurance, fitness and permit, the driving licence and any other relevant documents on demand by any police officer in uniform or any other officer authorized by the State Government in this behalf, and if any or all of the documents are not in his possession, he shall produce in person an extract or extracts of the documents duly attested by any police officer or by any other officer or send it to the officer who demanded the documents by registered post within 15 days from the date of demand.”*

3. The learned Single Judge noted that there exists a dispute between the parties and that the blacklist is legal.



4. It is to be noted that the public authority is not competent to encourage any private dispute between the parties by invoking the statutory provisions. If there is any private dispute existing between the parties, they are free to move the competent court for redressal of their private dispute. In the colour of a private dispute, the statutory provisions cannot be invoked to blacklist a vehicle. No doubt, if any order is passed by the civil court or competent authority, that order will have to be honoured by the public authority.

5. It is to be noted that under Section 2(30) of the Motor Vehicles Act, the owner is defined as follows:

*“owner” means a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement.*

An owner includes a person in possession of the vehicle. Therefore, the owner need not be a registered owner. If the competent authority is satisfied that the person seeking a fitness certificate is the owner, then the public authority is acting in accordance with law. We make it clear that this Court is not clothing



any right for the appellant to get a fitness certificate. It is for the public authority to decide whether based on the materials produced, the petitioner can be treated as an owner for obtaining a fitness certificate. We are only interfering with the action of the public authority in blacklisting the vehicle because of the private dispute. According to us, it cannot be done unless the parties obtain an order from the competent court in regard to the subject of the dispute. Accordingly, the impugned judgment is *set aside*. There shall be an order to lift the blacklisting of the vehicle in question. However, we make it clear that this will be subject to any civil dispute between the parties and subject to any order to be passed by the competent civil court.

The writ appeal is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE**

**JUDGE**

Sd/-

**SHOBA ANNAMMA EAPEN**

**JUDGE**

In

APPENDIX OF WA 1756/2023

## PETITIONER'S ANNEXURES:

- ANNEXURE A1 A TRUE COPY OF THE SAID SHOW CAUSE NOTICE DATED 26.09.2023 ISSUED BY THE HINDUSTAN PETROLEUM CORPORATION LTD TO THE APPELLANT.
- ANNEXURE A2 TRUE COPY OF THE STATEMENT OF ACCOUNTS FOR THE PERIOD FROM 01.01.2012 TO 28.08.2022 OF THE APPLICANT MAINTAINED AT FEDERAL BANK, OMASSERY BRANCH, THE ACCOUNT NUMBER BEING 21360100019465.
- ANNEXURE A3 A TRUE COPY OF THE REQUEST DATED 25.08.2022 SUBMITTED BY THE APPELLANT BEFORE THE MANAGER, HINDUSTAN PETROLEUM CORPORATION LTD, DEPOT ELATHUR, KOZHIKODE AND THE ENGLISH TRANSLATION OF THE SAME.
- ANNEXURE A4 A TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE APPELLANT FOR THE PERIOD FROM 14.01.2023 TO 16.01.2023 BEING MAINTAINED IN FEDERAL BANK, OMASSERY BRANCH.
- ANNEXURE A5 A TRUE COPY OF THE REPRESENTATION DATED 02.08.2022 SUBMITTED BY THE APPELLANT BEFORE THE REGIONAL MANGER, HINDUSTAN PETROLEUM CORPORATION LTD, KOZHIKODE.
- ANNEXURE A6 A TRUE COPY OF DEED OF PARTNERSHIP EXECUTED BETWEEN THE APPELLANT AND THE 2ND RESPONDENT HEREIN ON THE 14TH DAY OF OCTOBER, 2020.

## RESPONDENTS' ANNEXURES:

- ANNEXURE R2 (A) THE TRUE COPY OF THE PARTNERSHIP DEED DATED 14TH OCTOBER 2020 BETWEEN THE APPELLANT AND THE APPLICANT/2ND RESPONDENT.
- ANNEXURE R2 (B) THE TRUE COPY OF THE ACKNOWLEDGEMENT OF REGISTRATION OF FIRMS ISSUED BY THE DEPARTMENT OF REGISTRAR OF FIRMS DATED 12-08-2021.



**ANNEXURE R2 (C) THE TRUE COPY OF THE LETTER OF INTENT OF THE  
RETAIL OUTLET WAS ISSUED BY THE HINDUSTAN  
PETROLEUM CORPORATION LTD TO THE  
APPLICANT/2ND RESPONDENT DATED 12-12-2005.**