

**WP NO. 19861/2023 Connected Cases: WP NO. 20148/2023,
WP NO. 20971/2023**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
[HIGH SECURITY REGISTRATION PLATE (HSRP)
MANUFACTURERS ASSOCIATION OF INDIA AND OTHERS
VS. STATE OF KARNATAKA AND OTHERS]

BMSPJ

20.09.2023

(VIDEO CONFERENCING / PHYSICAL HEARING)

ORDER

The petitioners have called in question the Notification dated 17.08.2023 and the Circular dated 18.08.2023 [*impugned Notification/ Circular*] issued by the State Government. The petitioners, who are either *an* Association of Vehicle Registration Plate Manufacturers or those engaged in the manufacture of such license plates, are aggrieved by the following stipulation in the Notification/Circular primarily.

[i] Only the High Security Registration Plate Manufacturers [*the License Plate Manufacturers*] authorized by the Original Equipment Manufacturers [*vehicle manufacturers*] shall supply the High Security Registration Plate

[HSRP] for the *old vehicles*¹, and such HSRP shall be affixed by the authorized dealers of the vehicle manufacturers.

- [ii] The old vehicle owners shall have the HSRP affixed within three [3] months from the date of the Notification.

The petitioners contend that this Court must grant *ad interim* order staying the operation of both the Notification and the Circular.

2. The impugned Notification/Circular are issued to implement the HSRP *Scheme* that has been on the anvil for over two decades, and as stated by the learned Senior counsels, the Hon'ble Apex Court is monitoring its implementation of the scheme. Initially, the provisions of Rule 50(1)(v) of the Central Motor Vehicles Rules, 1989 [for short, '*the MV Rules*'] contemplated that all the vehicle license plates with the required specifications shall be

¹ *The vehicles registered before 01.04.2019.*

issued by the registering authority or approved license plate manufacturers or their dealers.

3. When the Rule stood thus, notification was issued inviting bids for supply of HSRP, and the grievance with such notification being considered by the Hon'ble Supreme Court in ***Association of Registration Plates v. Union of India and Others***² it is expounded that the registering authority is not prohibited from selecting an approved license plate manufacturer in implementation of HSRP *Scheme*. This exposition is in the light of the contention that the implementation of HSRP *Scheme* through inviting tenders would create a monopoly to the detriment of the rights of the other license plate manufacturers.

4. In the month of December 2018, the provisions of Rule 50[1][v] of the MV Rules are amended. The proviso in Rule 50[1][v] is substituted providing that the HSRP shall be supplied by the vehicle manufacturers along with the

² [2005] 1 SCC 679

vehicles manufactured on or after 01.04.2019 to their dealers and the dealers shall affix the plates on the vehicle. Insofar as the vehicles registered before 01.04.2019 [*old vehicles*], the substituted provisions enabled the vehicle manufacturer to supply HSRP to their dealers stipulating that such dealers may affix HSRP. This amendment is followed by the Government of India order dated 06.12.2018 issued under the provisions of Section 109 of the Motor Vehicles Act, 1988 [for short, '*the MV Act*']. The Government of India, while reiterating that the HSRP for the old vehicles may be supplied and affixed by the dealers of the vehicle manufacturers, has clarified that the license plate manufacturers or their suppliers may also supply the HSRP for old vehicles but with the predication that they must be so authorized by the concerned State Government/ Union Territory Administration.

5. This order is placed on record before the Hon'ble Supreme Court on 10.12.2018 in ***M C Mehta v. Union of India and Others*** in W.P. [Civil] No.13029/1985 along with an affidavit stating that the amendment *vide* the Notification

dated 04.12.2018 and the statutory order dated 06.12.2018 are issued in accordance with the assurance given to the Hon'ble Apex Court and in compliance with its orders. The Hon'ble Supreme Court, with some of the parties to the proceedings proposing to challenge the validity of the amendment *vide* the Notification dated 04.12.2018, has clarified that any challenge to the afore must lie only before it and not before any other Court.

6. In the month of February 2020, the provisions of Rule 50[1][v] of the MV Rules are amended again retaining the provisos substituted *vide* the Notification dated 04.12.2018. The amendment is to stipulate that for new vehicles, the registering authority or the vehicle manufacturers and their dealers shall issue HSRP; and as regards the old vehicles, the stipulation is that the HSRP shall be issued by the registering authority or vehicle manufacturers/their dealers or by the *approved license plate manufacturers or their dealers*. This provision is further amended on 18.08.2022. The expression '*approved license plate manufacturers or their dealers*' is substituted by the

expression '*license plate manufacturers or their dealers approved by the State Government or the Union Territory administration*'.

7. The Central Government, after this amendment, has addressed a communication on 09.06.2023 to the Principal Secretaries of the Department of Transport of all the States stating *inter alia* that HSRP Scheme is imperative to the country's National Security, in aiding reduction of vehicular borne crime, in identification of all vehicles plying on the roads and in prevention of tampering and counterfeiting, and that if the manufacturers or their dealers are not approved by the vehicle manufacturers or authorized by the State, the affixture of HSRP would be unauthorized. The Central Government has also clarified that the HSRP for the '*old vehicles*' shall be issued by the registering authority, or the vehicle manufacturers/their dealers, or the license plate manufacturers/their dealers *approved* by the State Government/ Union Territory Administration.

8. Dr. Aditya Sondhi and Sri K N Phanindra, the learned Senior Counsels for the petitioners, arguing in support of the petitioners' request for interim order emphasizing the following.

8.1 The provisions of Rule 50[1][v] of the MV Rules, and even the statutory order issued in exercise of powers under Section 109 of the MV Act, enable license plate manufacturers who are authorized by the Central Road Research Institute, New Delhi or similar agency under Rule 126 of the MV Rules to supply HSRP for the old vehicles. The MV Rules are formed by the Government of India in exercise of the powers under Section 64 of the MV Act. The State Government, which is conferred with the powers to frame Rules under Section 65 of the MV Act, can only frame Rules in respect of such subjects that are not covered under Section 64 of the MV Act.

8.2 The State Government, which does not have power even to frame Rules in respect of subjects that are covered under Section 64 of the MV Act, has issued an executive order in the impugned Notification/Circular

excluding the license plate manufacturers and stipulating that only those who are approved by the vehicle manufacturers can supply the HSRP to the old vehicles. The subject in this regard is within the exclusive domain of the Central Government, and as such, the impugned Notification and Circular not just fall foul of the MV Rules and the statutory order they are also without jurisdiction.

8.3 The State Government cannot insist upon any approval for the license plate manufacturers who are *Type Approval Certificate* [TAC] holders, and the insistence on approval for the license plate manufacturers would be despite the specific provisions of Rule 50[1][v] of the MV Rules. If the State Government cannot insist upon its approval to enable the license plate manufacturers to supply HSRP, it cannot stipulate that the approval, or for that matter authorization, must be from the vehicle manufacturers. Even otherwise, the stipulation that the vehicle manufacturers shall approve the license plate manufacturers for supply of HSRP to the old vehicles is an

abdication of statutory duty and is intended to create monopoly in favour of a selected few.

8.4 The State Government simultaneously with the impugned Notification/Circular has enabled a feature 'VAHAN' portal that enables the Society of Indian Automobile Manufacturers [SIMA] to process the affixture of HSRP to *old vehicles*. There is complete opaqueness in the manner in which the vehicle manufacturers grant approval to the license plate manufacturers, and the arbitrariness is manifest in stipulating that the old vehicles must have the HSRP affixed within three months from the date of the impugned Notification/Circular. If the operation of the impugned Notification/Circular is not stayed, given the time stipulation, the petitions would be rendered infructuous, and the petitioners would be left without any remedy.

9. Sri Vikram Huilgol, a learned Additional Advocate General for the State Government and Sri Sajan Poovayya, the learned Senior Counsel for the applicant in I.A. No.2/2023 supported by Sri Shrvanth Arya Tandra, the

learned counsel on record for the other applicant in I.A. No.3/2023, submit in response as follows:

9.1 The license plate manufacturers cannot claim an absolute right to supply the HSRP and this falls from the ratio in '**Association of Registration Plates v. Union of India and Others**' supra. It also follows from the afore ratio that the registering authority *viz.*, the State Government can choose the mode of selecting the license plate manufacturer/s for implementation of HSRP *Scheme* which would necessarily entail consideration of factors such as capacity and capability of the license plate manufacturers, and the best possible manner of monitoring the use of HSRP.

9.2 The license plate manufacturers, especially with the amendment of Rule 50[1][v] in the month of August 2022, cannot contend that because they hold TAC [*Type Approval Certificate*] they would be eligible to supply the HSRP without the approval of the State. The Central Government's consistent policy from the year 2018 has been to insist upon approval/authorization for the license plate

manufacturers and suppliers for providing HSRP. This is seen in the provisions of the statutory order dated 06.12.2018 and in the amendment brought out in the month of August 2022 and the subsequent clarification. The State Government is justified insisting upon approval for license plate manufacturers to supply HSRP and this is in consonance, and not in derogation of the provisions of Rule 50[1][v] of the MV Rules.

9.3 The State Government could have chosen from multiple options on the process for granting approval that is contemplated under Rule 50[1][v] of the MV Rules. If the issuance of approval by selection by tender, approved by the aforesaid ***Association of Registration Plates v. Union of India and Others'*** supra, could be one mode, the other mode would be insistence on approval from the vehicle manufacturers. The State Government has chosen this mode to ensure fixing of responsibility in the event there is any occasion for complaints about counterfeiting and tampering of HSRP and the like.

9.4 The petitioners - license plate manufacturers are not excluded, and it would be open for them to take the approval from the vehicle manufacturers and supply the HSRP. In fact, today, on behalf of one of the impleading applicants, a memo is filed stating the details of the process followed by the vehicle manufacturers for approval of the license plate manufacturers to supply HSRP.

10. On conclusion of the hearings on the previous hearing date *viz.*, 19.09.2023, Sri Vikram Huilgol was permitted to state whether the State Government would be open to consider a framing *Scheme*, within definite timeline, for processing the request for grant of fauthorization/approval for license plate manufacturers who have TAC issued by the Central Road Research Institute [CRRI] or any other agency notified for such purpose. Sri Vikram Huilgol, drawing this Court's attention to the Statement of Objections filed by the State Government, submits that the approval of license plate manufacturers by vehicle manufacturers is an exclusive Scheme and having chosen this exclusive mode, it cannot implement HSRP

Scheme both through OEMs and the process of approval of license plate manufacturers on the ground of hardship.

11. Sri Vikram Huilgol, supported by Sri Vaibhav Malimath, the learned Standing Counsel for the Central Government, emphasizes that the HSRP *Scheme* is being implemented to reduce vehicular borne crime, identification of all vehicles plying on the roads and in prevention of tampering and counterfeiting. This implementation of the *Scheme* which had to be completed within a period of two years is delayed even after two decades, and if there is a stay, the implementation, despite all efforts, would be derailed.

12. This Court, subject to elaboration that there could be by the learned senior counsels/ learned counsels for the petitioners and the respondents/applicants, is of the view that the primary questions are to be considered for final adjudication.

[a] Whether the petitioners/license plate manufacturers can justifiably contend that the State Government cannot insist upon approval

for supply of HSRP for old vehicles as such requirement would only be for their dealers.

[b] Whether the State Government could have notified that the approval to license plate manufacturers for supply of HSRP for old vehicles under Rule 50[1][v] of the MV Rules, if justified, will be by the vehicle manufacturers, and whether there could be any arbitrariness in the matter of grant of such approval by the vehicle manufacturers.

The rival submissions for and against the grant of interim order are considered in the light of the afore, and as against the parameters of *prima facie* case, balance of convenience and irreparable injury.

13. This Court is of the *prima facie* view that with the amendment of Rule 50[1][v] of the MV Rules in August 2022, which will have to be read in conjunction with the terms of the statutory order dated 06.12.2018, that the insistence on approval for license plate manufacturers to supply HSRP for old vehicles may not be extraneous or beyond the requirements in law. Therefore, this Court, at this stage, is

not persuaded to opine that the petitioners have made out a case against approval by the State Government for supply HSRP to the old vehicles. This Court must also record the undisputed position that the Hon'ble Apex Court is monitoring the implementation of the HSRP *Scheme*, and it has observed that any challenge to the statutory order dated 06.12.2018, which amongst others stipulate that license plate manufacturers must be authorized by the State Government, must lie only before it and not before any other Court.

14. The petitioners – license plate manufacturer's grievance is also about the denial of a fair opportunity to participate in the HSRP implementation despite possessing TAC from CRRI and such other agencies with the State Government stipulating timeline for completion of the implementation, and the possible resultant arbitrariness in the process because of the same. While considering the prayer for stay of the operation of the impugned notification/ circular, if on one hand the reasons for implementation of HSRP *Scheme* is to be examined, on the other hand, this

Court must also ensure that the license plate manufacturers with appropriate authorization are not completely excluded from the process of implementation of HSRP scheme insofar as the old vehicles. In fact, it is repeatedly stated on behalf of the State Government that it would be open to the petitioners – license plate manufacturers to avail the approval from the vehicle manufacturers for supply of HSRP to the old vehicles.

15. This Court must observe that the petitioners' contention that the State Government has not granted any approval for any license plate manufacturers to supply HSRP for old vehicles prior to the impugned notification/circular remains uncontroverted, and there is nothing on record to demonstrate that there was any publication of the State Government's intendment to insist on approval under Rule 50[1][v] of the MV Rules through the vehicle manufacturers. The State Government has also not placed any material on record to demonstrate that it has formulated a scheme identifying the process to be followed by the vehicle manufacturers to grant approval to the license plate

manufacturers to supply HSRP to old vehicles, which even according to it would be a requirement under Rule 50[1][v] of the MV Rules. An impleading applicant, *M/s. FTA HSRP Solutions Private Limited*, a HSRP manufacturer and authorized by the vehicle manufacturer, has placed on record these details, but it mostly remains unauthenticated.

16. However, the question of arbitrariness in the implementation of the HSRP Scheme could be mostly eliminated if the State Government had formulated a time bound process to be followed by the vehicle manufacturers to grant approval, especially with the stipulation that the owners of the *old vehicles* must have HSRP affixed on their vehicles within a period of ninety [90] days from the date of the impugned Notification/Circular. The State Government is on record to state that the timeline contemplated is dynamic and the timeline could be revisited depending on the exigencies as they emerge. The timeline contemplated for the implementation of the HSRP Scheme has not expired.

17. The petitioners - license plate manufacturers, subject to decision on the question of approval as

contemplated under Rule 50[1][v] of the Rules and without prejudice to the contentions urged and pending consideration, must have a reasonable opportunity to participate in the process of implementation of HSRP with the approval of the vehicle manufacturers and subject to the outcome of these writ petitions. The factors of balance of convenience and irreparable injury could be reasonably achieved if the State Government, subject to further orders of this Court and without prejudice to its case, is called upon to notify a detailed process to be followed to the vehicle manufacturers to grant approval across the board to all the license plate manufacturers with the necessary TAC and this exercise must be completed within a timeframe. The petitioners, without prejudice to their case must be reserved liberty to participate in the process that is so finalized by the State Government pursuant to this order. In the light of the above, the following:

ORDER

[a] The petitioners' request for stay of operation
of the impugned Notification dated

17.08.2023 [Annexure-F in W.P.
No.19861/2023] and the Circular dated
18.08.2023 [Annexure-G in W.P.
No.19861/2023] is not accepted.

- [b] The State Government, within a period of fifteen [15] days from today, shall finalize and publish the process that is to be followed by the vehicle manufactures to accord approval for every license plate manufacturer with *Type Approval Certificate*.
- [c] The petitioners, without prejudice to their defense in the present case, shall be entitled to seek approval from the vehicle manufacturers to participate in the HSRP Scheme.

**SD/-
JUDGE**

AN/-
List No.: 1 Sl No.: 1