

REPORTABLE**IN THE SUPREME COURT OF INDIA****CIVIL ORIGINAL JURISDICTION**IA NOS.10 AND 11 of 2010**IN**WRIT PETITION (CIVIL) NO.510 OF 2005

Maninderjit Singh Bitta

... Petitioner

Versus

Union of India & Ors.

... Respondents

WITHIA NO.12 of 2010 IN IA NO.10 of 2010**IN**WRIT PETITION (CIVIL) NO.510 OF 2005**ORDER**

Government of India, on 28th March, 2001, issued a notification under the provisions of Section 41(6) of the Motor Vehicles Act, 1988 (for short, 'the Act') read with Rule 50 of the Motor Vehicles Rules, 1989 (for short, 'the Rules') for implementation of the provisions of the Act. This notification sought to introduce a new scheme regulating issuance and fixation of number plates. In terms of sub-section (3) of Section 109 of the Act, the Central Government

issued an order dated 22nd August, 2001 which dealt with various facets of manufacture, supply and fixation of new High Security Registration Plates (HSRP). The Central Government also issued a notification dated 16th October, 2001 for further implementation of the said order and the scheme. Various States had invited tenders in order to implement the scheme.

A writ petition being Writ Petition (C) No.41 of 2003 was filed in this Court challenging the Central Government's power to issue such notification as well as terms and conditions of the tender process. In addition to the above writ petition before this Court, various other writ petitions were filed in different High Courts raising the same challenge. These writ petitions came to be transferred to this Court. All the transferred cases along with Writ Petition (C) No. 41 of 2003 were referred to a larger Bench of three Judges of this Court by order of reference dated 26th May, 2005 in the case of *Association of Registration Plates v. Union of India* [(2004) 5 SCC 364], as there was difference of opinion between the learned Members of the Bench dealing with the case. The three Judge Bench finally disposed of the writ petitions vide its order dated 30th November, 2004 reported in (2005) 1 SCC 679. While dismissing the writ petition and the connected matters, the Bench rejected the

challenge made to the provisions of the Rules, statutory order issued by the Central Government and the tender conditions and also issued certain directions for appropriate implementation of the scheme.

The matter did not rest there. Different States did not comply with the Rules, scheme and/or statutory order which resulted in filing of the present writ petition, being Writ Petition (C) No.510 of 2005. This writ petition also came to be disposed of by a three Judge Bench of this Court in its judgment titled as *Maninderjit Singh Bitta v. Union of India* [(2008) 7 SCC 328]. It will be appropriate to refer to the operative part of the judgment:

“5. Grievance of the petitioner and the intervener i.e. All India Motor Vehicles Security Association is that subsequent to the judgment the scheme of HSRP is yet not implemented in any State except the State of Meghalaya and other States are still repeating the processing of the tender. The prayer therefore is that the purpose of introducing the scheme should be fulfilled (sic-in) letter and spirit. The objective being public safety and security there should not be any lethargy. It is pointed out that most of the States floated the tenders and thereafter without any reason the process has been slowed down...

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9. Needless to say the scheme appears to have been introduced keeping in view the public safety and security of the citizens. Let necessary decisions be taken, if not already taken, within a period of six months from today. While taking the decision the aspects highlighted by this Court in the earlier decision needless to say shall be kept in view.”

Despite the above judgments of the Court, most of the States have failed to implement the scheme in its true spirit. This resulted in filing of IA No.5 in Writ Petition (C) No.510 of 2005 where the applicant prayed for a clarification of order dated 8th May, 2008 stating that some of the States were carrying the impression as if they had the discretion to give effect to the amended Rules and the scheme. Vide order dated 5th May, 2009, the Court clarified the doubt and unambiguously stated that there is no discretion given to the States/Union Territories not to give effect to the amended Rule 50, the scheme of HSRP and modalities to be followed in pursuance thereof.

In the meanwhile, IA No. 10 of 2010, in Writ Petition No. 510 of 2005, was filed by the State of Kerala seeking extension of time to comply with the scheme and orders of this Court. They prayed for six months' extension with effect from 1st June, 2010. One of the main grounds taken by the State of Kerala was that it was finalizing the modalities needed for implementation of the HSRP scheme in the State and was also finding out the cheapest rate in the market for benefit of public. This application was opposed by the petitioner and during the course of arguments, applicant State of Kerala also pointed out that it had financial constraints as well in implementation of the scheme. An order was passed by this Court on 13th August,

2010 noticing the grounds taken up by the State of Kerala and they were permitted to implement the scheme phase-wise and at the places indicated in that order.

The petitioner filed IA No.12 of 2010 in IA No.10 of 2010 in Writ Petition (C) No. 510 of 2005 praying for modification of the order dated 13th August, 2010 stating that the State of Kerala has no such financial crisis that it could not implement the scheme immediately. In that application, case was also made out that a large number of States were not carrying out the orders of the Court and, in fact, had violated the same with impunity. Prayer was also made for issuance of a direction to the State Governments/Union Territories to implement the scheme and statutory provisions within the time already extended.

The State of Himachal Pradesh has also filed an application being IA No.11 of 2010 in Writ Petition (C) No. 510 of 2005 praying for extension of at least six months to complete the process and file the compliance in this Court.

This is how all these three applications came up for hearing before the Court. The matter was heard and reserved for orders on

11th March, 2011. During the course of hearing, learned counsel appearing on behalf of the State of Kerala, had pointed out that in three cities, i.e. Trivandrum, Cochin and Calicut, the tender documents for manufacture and procurement of HSRP have already been issued and further steps are being taken to implement the scheme. It was not pressed by the State of Kerala that it should be allowed to complete the implementation of the scheme and the statutory provisions in a phased manner as it would ensure its best to implement the same in the extended period or at the earliest.

In the affidavit filed on behalf of the petitioner dated 11th August, 2010, it has been specifically averred that despite repeated directions and extensions granted by this Court to implement the scheme, several States/Union Territories have not carried out their statutory functions for implementation of HSRP scheme as per law. In fact, except the States of Meghalaya, Sikkim and Goa, no other State or Union Territory had implemented the said scheme. A chart depicting the status of implementation of the HSRP scheme in respective States and Union Territories was separately filed on record which reads as under :

S. No.	State	Status as on Date
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1.	Andhra Pradesh	No Action yet.
2.	Arunachal Pradesh	No Action yet.
3.	Assam	Tender issued on 07.06.10 but bid submission date is deferred till further notice.
4.	Andaman & Nicobar	Tender issued and submission on 18 March 2011
5.	Bihar	Tender issued in Apr'08 and cancelled on June 2010. Fresh tender yet to be issued.
6	Chhattisgarh	Tender NIT issued in November 07. The submissions of the bids were deferred after the pre bid meeting. No further action has been taken by the State
7.	Chandigarh	No action yet.
8.	Daman & Diu	Tender issued in Apr'09 and cancelled in Apr' 2010. Fresh tender yet to be issued.
9.	Dadar & Nagar Haveli	Tender issued in Apr'09 and cancelled in Apr' 2010. Fresh tender yet to be issued.
10.	Delhi	No Action yet.
11.	Government of India	No direct action for implementation of the scheme required to be taken by GOI.
12.	Goa	Scheme has been implemented in August 2009
13.	Gujarat	No Action yet.
14.	Haryana	No Action yet.
15.	Himachal Pradesh	No Action yet.
16.	Jharkhand	No Action yet.
17.	J & K	No Action yet.
18.	Karnataka	Agreement for implementation signed with the Vendor in 2006. Price Notification and Implementation date is pending since last 4 years. Now State govt, cancelled the agreement and matter is pending before the Karnataka High court against cancellation of tender.
19	Kerala	Notice Inviting Tender issued on 06.10.10 submission date for tenders for 3 districts was fixed on 31 st Jan 2011, but Tonnjes Eastern Security Technologies Pvt. Ltd. challenge the tender conditions at High Court of Kerala and the Hon'ble High Court has granted stay on the proceedings till further order.
20	Lakshadweep	Tender issued in April 2008 and financial bids of technically qualified bidders were opened. Subsequently the tender has been cancelled.
21	Manipur	The State Government had floated the

		tender and after processing and has identified the lowest bidder. No further progress in terms of implementation.
22	Meghalaya	Scheme has been implemented in August 2006.
23	Mizoram	The State Government had floated the tender and after processing and has identified the lowest bidder. No further progress.
24	Madhya Pradesh	No action yet.
25	Maharashtra	Tender issued in June'07. Financial bids were open in 2008. Now State Government wants to add new RFID technology in HSRP and they cancelled the Tender. But Ministry of Road Transport & Highway filed a Review petition at Bombay High Court and Stating that Modus operandi of State Government is illegal and no power to add/delete any feature of HSRP or to amend/modify any provision of the rule made under a Central Statute.
26	Nagaland	Contract signed. Implementation in progress. Price Notification awaited.
27	Orissa	Pre-Qualification Bid got opened on 04.06.2010 and further the evaluation process is currently going on by the State Government.
28	Pondicherry	Tender floated in Apr'07. Financial bids were open but final decision yet to be taken.
29	Punjab	No action yet.
30	Rajasthan	The G.O. was issued on 29 th September 2008 notifying 11 th March 2009 as the implementation date. But due to the political rivalry the new Government suspended the contract on 6 March'09 for an indefinite period.
31	Sikkim	Scheme implemented in March 2009.
32	Tripura	Fresh tender issued on 15 January 2011 but unqualified bidder challenge the earlier tender which was cancelled. Matter is pending before Guahati High Court at Agartalla Bench.
33	Tamil Nadu	No action yet.
34	Uttar Pradesh	No action yet.
35	Uttarakhand	Fresh tender was issued in 07 July 2010. Submission of bids deferred indefinitely.
36	West Bengal	Tender issued but final decision yet to be taken.

A bare reading of this chart shows that a large number of States have not yet taken any action whatsoever for implementation of the scheme.

In other States, though tenders have been issued long time back, no further step has been taken to complete the implementation of the scheme and ensure installation of HSRP within their respective jurisdictions. In other words, all the States/Union Territories can be categorised into three different classes. Firstly, the ones who have completely implemented the scheme and this fact is not disputed by the petitioner. These are States of Meghalaya, Sikkim and Goa. Secondly, the States where tenders have been invited quite some time ago but they could not be finalized for one reason or the other. Some States in this category, i.e. Tripura, Karnataka, Maharashtra and Kerala, have referred to proceedings in regard to tender process being pending before the High Courts of the respective States as cause of the delay in implementation of the scheme. In this category, there are States which had invited tenders some time back but thereafter no further step has been taken by them to complete the implementation of the scheme without any reasonable explanation. Thirdly, the States which have not taken any action whatsoever, despite judgments and specific orders of this Court right from the year

2004 till date.

Of course, conduct of all these States cannot be painted with the same brush and they deserve to be dealt with in their respective categories and in accordance with law. The States which have implemented the scheme deserve a word of appreciation from this Court with a further observation that they should continue to implement the scheme more effectively to ensure public safety.

All those States which have invited tenders but have not finalized the same resulting in non-implementation of the scheme and the statutory provisions needs to be cautioned that just taking a step in furtherance to the order of the Court cannot be even called substantial compliance much less complete compliance of the same in its true spirit and substance. Thus, they need to be directed to complete the process and ensure implementation of HSRP scheme at the earliest. Such directions that too with a time bound programme are necessary as that alone would be in the interest of the State as well as public at large.

The last and the most disobedient category is of the States which have not even initiated any process for compliance of their

statutory duty, obedience to the orders of this Court and implementation of a duly notified scheme. Till date, several of these States have not even approached this Court, during this long period, for any extension of time giving reasons for non-compliance of the orders of this Court or the statutory provisions as they have not filed any application for the same to enable them to fulfill their statutory obligations and obedience of the orders of the Court. The irresistible and only conclusion that can be drawn from the facts on record and the above circumstances is that it is an intentional disobedience of the orders of the Court by the concerned Authorities in the respective States. The obedience of orders of this Court is necessary for preserving the integrity of this constitutional institution and to put forward this point reference can be made to the following paragraph appearing in the judgment of this Court in the case of *Achhan Rizvi (II) v. State of U.P.* [(1994) 6 SCC 752] :

“7. It appears to us that if no assurance of an effective implementation of the Court’s orders is forthcoming from the State Government, it will be our constitutional duty not merely to expect but to exact obedience in an appropriate manner. This step, we believe, would become necessary to preserve the meaning and integrity of the constitutional institutions and their interrelationships, essential to the preservation of the chosen way of life of the Indian people under the Constitution.”

Disobedience of Court orders, more so persistent disobedience, has been viewed very seriously by the concerned

Courts. It is not only desirable but an essential requirement of law that the concerned authorities/executive should carry out their statutory functions and comply with the orders of the Court within the stipulated time. Such course attains greater significance where the statutory law is coupled with the directions issued by a Court of law in relation to attainment of a public purpose and public interest. In the present days, safety of the citizens is of paramount concern for the State and all its authorities. The directions issued by this Court for implementation of HSRP scheme sought to achieve such interest as well as it would be a step forward even in the field of investigation in case a vehicle is used in commitment of an offence or a crime. As already noticed, there are large number of States who have not taken any action in furtherance to judgments and directions of this Court and their statutory obligations. This conduct of the States compels us at least to begin with direction for the presence of the senior officers in charge of such affairs in the respective State Governments before this Court. At the first instance, we would restrict this direction only to defaulting States of Delhi, Punjab & Uttar Pradesh. Therefore, we direct Secretary, Transport/Commissioner, State Transport Authority of these States to be present in this Court on the next date of hearing and show cause why the Court should not initiate proceedings against them under the provisions of the Contempt of Courts Act,

1971. De hors the issuance of the above show cause notice, these States are also ordered to comply with other directions contained in this Order.

In regard to other defaulting States, before we invoke the extra ordinary jurisdiction of this Court for initiation of contempt proceedings against the concerned authorities of the respective defaulting States, we consider it appropriate to require the Secretary (Transport) and/or Commissioner, State Transport Authority of each of the States in the third category to file a personal affidavit stating the reasons for not complying with the orders of this Court. If any steps of any kind in furtherance to the judgments of this Court afore-referred, satisfying requirements of amended Rule 50 of the Rules for implementation of the notified scheme have already been taken by these States, then those steps should specifically be stated in the affidavits with supporting documents. In the event of default, the Secretary (Transport)/Commissioner, State Transport Authority shall be present personally in the Court on the next date of hearing.

The above are the directions of the Court for immediate compliance. Affidavit on behalf of the States mentioned in this order should be filed within four weeks from the date of the order. We make

it clear that now, in the event of default, this Court shall not only initiate proceedings under the provisions of the Contempt of Courts Act, 1971 but may also impose costs, exemplary or otherwise, recoverable from the defaulting officers personally.

The States falling under the second category, i.e. which have initiated the steps but have not completed the same despite lapse of considerable time, are hereby granted six weeks time to complete the remaining process and also file affidavits before this Court showing complete compliance.

All the applications to stand over for six weeks.

.....CJI.
(S.H. Kapadia)

.....J.
(K.S. Panicker Radhakrishnan)

.....J.
(Swatanter Kumar)

New Delhi
April 07, 2011