

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

IA NOS.10 – 11 OF 2010

IN

IA No.10 OF 2010

IN

WRIT PETITION (CIVIL) NO.510 OF 2005

**Maninderjit Singh Bitta
Petitioner**

...

Versus

Union of India & Ors.

... Respondents

AND

IA NOS. 12 OF 2010

IN

IA No.10 OF 2010

IN

WRIT PETITION (CIVIL) NO.510 OF 2005

ORDER

1. We had passed a detailed order on 7th April, 2011 referring to the judgments and directions of this Court in the cases of *Association of Registration Plates v. Union of India* [(2005) 1 SCC 679] and *Maninderjit Singh Bitta v. Union of India* [(2008) 7 SCC 328]. As is evident, the main judgment of this Court in the

aforementioned case of *Association of Plates* (supra) was pronounced on 30th November, 2004 and further directions were issued on 8th May, 2008 in case of *Maninderjit Singh Bitta* (supra) to secure implementation of various statutory requirements as per the earlier judgment of this Court. The present order has to be read in continuation of our order dated 7th April, 2011 and the judgments referred supra.

2. Sufficient time has elapsed but default on the part of some States in complying with the directions of this Court still persists. In fact, seven years have elapsed but it appears to us that some States have not even taken initial steps to implement the scheme of High Security Registration Plates (for short, 'HSRP') in their respective States. We regretfully note that the situation in the present case is the converse of compliance. There is no State in the entire country which has successfully, in accordance with the statutory provisions and scheme, as approved by this Court, implemented the scheme in its entirety. As far as the financial limitations faced by different States are concerned, the matter was examined by this Court and their prayer for exemption was declined. However, they were permitted to complete the implementation of the scheme in phases. Of course, even such request was subsequently withdrawn.

3. The other matter with regard to permitting the HSRP to be fixed by private vendors, even if approved by the Government, was considered and for appropriate reasons, as stated in paragraphs 40 and 46 to 48 in the case of *Association of Registration Plates* (supra), rejected by this Court. It was held that “the interpretation sought to be placed by the petitioner on the said paragraphs of the Rule would result in frustrating the high security aspect and the object of the scheme of affixation of High Security Registration Plates on vehicles.” In terms of paragraph 4 of clause 9 of the Motor Vehicle (New High Security Registration Plates) Order, 2001 “no high security plate shall be affixed outside the premises of the Registering Authority”.

4. Another important facet of these cases is that in the process of selection, the States were expected to invite tenders and were even given liberty to consult experts prior to finalizing such tenders. The registration plates were then to be affixed by the selected tenderers at the Regional Transport Office of a District or State. The object of the ordinance and the judgment of this Court was to preserve public security and safety by ensuring that every vehicle in the State is fixed with HSRP and no part of the country remains where the scheme is not implemented.

5. On the basis of the implementation of the scheme, the States can be classified into four categories. In the first category there are four States/Union Territories : Nagaland, West Bengal, Manipur and Puducherry, where the tender process was followed, the successful tenderer has been awarded the contract for supplying security registration plates and the predicted date of enforcement of the scheme in the State has been fixed. But, no affidavit has been filed on behalf of these States confirming that the scheme has been successfully completed in all the districts of the respective States and also that the States would ensure complete and comprehensive implementation of the scheme in future as well. Let such affidavits be filed by the Secretary, Transport of the respective States within four weeks from the date of the passing of this order.

6. Then there is a second category of U.T./States i.e. the U.T. of Chandigarh and the States of Jharkhand and Bihar which have not followed the procedure for selection and have approved certain vendors with Type Approval Certificate (TAC) from the Central Government, who would be permitted to affix the HSRP at their own premises or at the office of the RTO. As we have already indicated, this is not in compliance with the directions of the Court, the scheme and provisions of the Motor Vehicles Act,

1988. If these States are permitted to adopt their own procedure, then it is bound to defeat the very purpose of security and uniform affixation of HSRP all over the country. Hence, this cannot be permitted as it would defeat the entire exercise undertaken by this Court over number of years. The aforesaid States are, therefore, directed to:

- a. Immediately invite tenders;
- b. Finalize the entire tender process within six weeks from today;
- c. File compliance report in this Court, in the form of affidavit stating that tenders have been finalized and the work of affixation of security registration plates has begun in every district or part thereof, within two weeks thereafter.

7. The third category include the defaulting States of Andhra Pradesh, Himachal Pradesh, Jammu and Kashmir, Tamil Nadu, Madhya Pradesh and Haryana. These States again can further be divided into two sub-categories. In the first sub-category, there are States of Tamil Nadu, Andhra Pradesh and Madhya Pradesh which have informed this Court, by filing of affidavits that they have fixed the dates for publication of tenders. They have estimated the period of publication of tender being the months of August and September of this year. These States have surprisingly taken not only months but years to even fix a date

for publication of tender. Despite our order dated 7th April, 2011, even the tenders have not been published as yet, though we had granted six weeks time for completing the process. Besides fixing the time limits for filing of the affidavits, we had also indicated that this Court would be compelled to take action against default the defaulting States under the Contempt of Court Act, 1971 as well as impose exemplary costs personally recoverable from the erring officers. However, before we take both these actions against the above category of defaulting States, we would give them another opportunity to complete the entire process of publication and issue tender within six weeks from today and commence the implementation of the scheme for fixation of HSRP in their States immediately thereafter. The affidavits to that effect should be filed within eight weeks from today.

8. Now, we come to the second sub-category of defaulting States, i.e. the States of Haryana, Arunachal Pradesh and Jammu and Kashmir. These are the States which have taken no action at all or have merely initiated the process without any effective result. They have not filed any affidavit to show why the directions of the Court have not been complied with, or, if complied with, to what extent the said compliance has been successful and finally whether they have followed the due process

as directed to be followed by the Courts, in the implementation of the scheme. All these States have done nothing except praying for extension of time before this Court. The State of Haryana, firstly, took no steps for years and thereafter, on 5th May, 2011, filed an affidavit to the effect that they have constituted a Committee of Secretaries to approve the draft of the tender notice and approval was to be granted on 6th May, 2011. There is nothing on record to show whether such approval has been granted or not and what steps have been taken by the State thereafter to comply with the directions of this Court. All the other States in this category have prayed for extension of time before this Court and some States have not even done so. Vide order dated 7th April, 2011, we had put at notice, not only these States but all concerned authorities in each State throughout the country, requiring them to show compliance to the orders of this Court. The conduct of these States clearly reflects their callousness and lack of will to obey the orders of this Court. Their attitude is one of disobedience rather than compliance. Thus, in our considered view, these are the defaulting states which have, with impunity, flouted the orders of this Court, despite warnings being issued, including the directions contained in order dated 7th April, 2011.

9. From the record before us, it is clear that there is

apparent and intentional default on the part of the concerned officers of these defaulting States. Consequently, we issue notice to show cause why proceedings under the Contempt of Courts Act, 1971 be not initiated, if found guilty, why they be not punished in accordance with law and why exemplary costs, personally recoverable from the erring officers/officials, be not imposed. Notice shall be issued to:

- a. Secretary (Transport) of the defaulting States.
- b. Commissioner, State Transport Authority of the respective States.

10. Now, we will come to the last category of States, i.e., the ones that have taken certain effective steps to secure compliance with the statutory provisions and the scheme. These are the States which have invited tenders in accordance with the selection process that has been approved by this Court. Some of these States have even opened the tender bids however, awarding of tender has not been finalized. The States of Assam, Punjab, Chhattisgarh, Delhi, Gujarat, Tripura, Uttar Pradesh, Uttarakhand and Kerala and the Union Territories of Lakshadweep and Andaman & Nicobar, have prayed for further extension of time to complete the process, which is already at an advanced stage. We may notice here that the State of Kerala had invited tenders earlier and it had received a single tender within

the time provided. The matter remained pending at that stage for a considerable time and thereafter, the State of Kerala filed I.A. No. 13 of 2011 praying for certain directions, including the permission to re-open applications for fresh tenders which was dismissed by this Court vide its order dated 12th August, 2011. We are reluctant to agree to further extension of time for the reason that all these States/U.Ts had enough time to comply with the requirements and some of these States/U.Ts were even cautioned vide our previous order. Some of these States/U.Ts have even given reasons for their non-compliance, including that they had invited tenders earlier but had to cancel the same for one reason or the other. Keeping in view the fact that all these States have at least taken some steps to finalize the proper implementation of the scheme, we consider it appropriate, though as mentioned above, with reluctance, to grant further extension of eight weeks time to these States/U.Ts to complete the entire process and implement the scheme in its entirety, in accordance with law. Thus, while granting them such extension, to complete the entire process for implementation of the scheme, we direct that vehicles in all the districts of the respective States/U.Ts shall install the HSRP within eight weeks from today without exception and default. An affidavit of compliance in that regard be filed immediately thereafter.

11. List the matter for directions, *qua* the States to whom we have issued show cause notice for initiation of proceedings under the Contempt of Courts Act, 1971 and imposition of exemplary costs as aforestated, after two weeks while the matters in relation to all the other States shall be listed immediately on the expiry of eight weeks from today.

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

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

.....J.
(Swatanter Kumar)

New Delhi
August 30, 2011

