

IN THE HIGH COURT OF SINDH AT KARACHI

Present: **Mohammad Ali Mazhar** and **Agha Faisal, JJ.**

CP D 240 of 2019 : Usman Ali vs.
Secretary Excise Department
Government of Sindh & Others

For the petitioner : Petitioner in person

For the respondents : Mr. Kafeel Ahmed Abbasi
Deputy Attorney General

Mr. Jawad Dero
Additional Advocate General Sindh

Mr. Waheed Siddiqui
AETO Excise & Taxation Department

Date of Hearing : 20.12.2019

Date of Announcement: 17.02.2020

JUDGMENT

Agha Faisal, J: The petitioner had purchased a taxi / cab, registered pursuant to the Prime Minister's Yellow Cab Transport Scheme ("Scheme"). The said vehicle had been auctioned, by a bank in recovery proceedings, and the petitioner derived his title after the said vehicle had already changed several hands. Thereafter, the petitioner applied to the have the vehicle transferred from commercial to private. Upon denial of his request by the Motor Registering Authority ("Authority") the present petition was preferred.

2. The petitioner appeared in person and argued that denial of the conversion, from commercial to private, was in derogation of his fundamental rights. It was submitted that the regulatory requirements for maintenance and upkeep of commercial vehicles were onerous, compared to those for private vehicles, hence, the petitioner remained at a manifest disadvantage.

3. The Authority filed a detailed response to the petition and delineated the chain of title in respect of the vehicle. It was

demonstrated that the said vehicle was auctioned subject to the restriction that the said vehicle would continue to be used for public transport and that the said stipulation would be applicable *mutatis mutandis* upon all subsequent purchasers thereof.

4. We have heard the arguments advanced before us and have considered the record available on file. It is apparent that the sale certificate of the vehicle, filed by the petitioner, describes the vehicle as a taxi. We have also seen the no objection certificate, dated 10.11.2009 issued in respect of the vehicle, wherein it is expressly stated that vehicle would be used for public transport per terms of the Scheme. The petitioner has purchased the vehicle down the chain of title from the original auction purchaser, however, enjoys the same rights and privileges as enjoined upon the original auction purchaser. In this context the only question before us is whether any vested right has accrued in favour of the petitioner which merits the exercise of Constitutional jurisdiction by this Court.

5. It has already been recorded that the vehicle was auctioned subject to certain terms and conditions and that the same were in force at the time that the vehicle was purchased by the petitioner. The petitioner was well aware of the *commercial* nature of the vehicle's registration and has provided no reason as to why he had purchased such a vehicle if he was unwilling to abide the terms and conditions appurtenant therewith.

6. It is further observed that the petitioner has been unable to identify any legal infirmity with respect to the decision of the Authority, denying the conversion sought by the petitioner. However, the petitioner attributed discrimination to the Authority and alleged that conversion, sought by the petitioner, had in fact been allowed by the Authority to another and filed a copy of the registration accorded to another vehicle.

7. Upon directions of this Court, the Authority filed a written response with regard to the vehicle allegedly converted from commercial to private. The response, dated 30.09.2019, categorically denied the allegation levelled there against and demonstrated that the said vehicle

was registered from the very onset as a private vehicle and had no nexus with the Scheme whatsoever.

8. The petitioner has failed to demonstrate any vested right in the first instance for the grant of the relief sought. In any event, the petitioner has failed to demonstrate any discrimination, lack of jurisdiction and/or partiality on behalf of official respondents, hence, there was no occasion to merit the exercise of Constitutional jurisdiction by this Court.

9. In view of the reasons and rationale contained herein, the present petition is determined to be misconceived and even otherwise devoid of merit, hence, this petition, along with pending application/s, is dismissed with no order as to costs.

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