

*Judgment Sheet*

**IN THE PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT**

*Writ Petition No.4846-P of 2016*

**JUDGMENT**

Date of hearing 09.06.2017

Petitioner (Sabir Khan) by Mr. Muhammad Ibrar Afridi, Advocate.

Respondents ( Government of Khyber Pakhtunkhwa through its Chief Secretary, Peshawar and others) Syed Hammad Ali Shah, Advocate and Mr. Rab Nawaz Khan, Additional Advocate General.

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**IJAZ ANWAR, J:-** Through this petition, the petitioner seeks the redressal of his grievances by submitting the following facts:-

1. The petitioner is a lawful owner and bonafide purchaser of vehicle bearing Registration No.P-3758, Chasses No.LH 110-0006672 Engine No.2 RZ0007999. The petitioner lost the original Registration book in the year 2008, he duly reported to the local police, which was reduced to a Naqal Mad dated 10.1.2008. He then applied for duplicate copy of the registration to the respondents. It is alleged that before the issuance of duplicate copy dated 13.8.2008, the petitioner found the original Registration and requested for the cancellation of Duplicate copy and that he be allowed to retain the original. The petitioner claimed that due to duplicate registration copy, the vehicle has lost its resale value, and the vehicle once sold was returned to him on the ground that the duplicate copy is creating doubt about the ownership of the vehicle. The request of the

petitioner for cancelling the duplicate and permitting him to retain the original registration book was declined to him allegedly in the light of certain instructions contained in office order No.13055/DD (Lit) dated 25.5.2012. The petitioner initially filed W.P.No.2931 of 2014 for the same relief, however, this Court vide judgment and order dated 26.11.2014 treated the writ petition as appeal and sent the same to the department for its decision.

2. The appeal of the petitioner was disposed of vide order dated 12.2.2015 on the ground that under Rule 40 of Motor Vehicle Rule 1969 if the lost original Registration book is found it is liable to cancellation and the duplicate will remain in the field.

3. The respondents were put to notice and directed to file parawise comments to the writ petition. They responded to the averment of the writ petition and summarized it in paras-6 and 9. Para-6 and 9 of the comments are reproduced below:-

6. *In reply to para-6, it is submitted that on 25.2.2012, the Director General Excise and Taxation Khyber Pakhtunkhwa Peshawar vide office order No.1628/Taxation dated 01.09.2008, by directing all the Motor Registering Authorities to consider the recovered/found registration book, as cancelled in light of provisions of Rule 40 of Motor Vehicle Rules, 1969.*

9. *In reply to para-9, it is submitted that the request of petitioner was acceded to, in accordance with law, and direction of this august court was followed and the required appropriate order was passed with regard to original registration of vehicle-in-question, which in purview of Rule 40 of Khyber Pakhtunkhwa Motor Vehicles Rules, 1969, is liable to be cancelled and*

*is required to be retained by the office of Motor Registering Authority, Peshawar.*

4. Arguments heard and record perused.

5. In order to appreciate the present controversy, we would like to refer to the relevant provision of Rules that deal with the cases of lost and subsequently found registration book.

Rule-38 of the Khyber Pakhtunkhwa, Motor Vehicle Rules 1969 deal with the eventualities of lost Registration book and issuance of Duplicate copy of Registration. Rule-38 *ibid* is reproduced for convenience:-

**38. Loss or Destruction of Certificate of Registration and Certificate of Fitness of a Transport Vehicle:** (1) *If at any time the certificate of registration or the certificate of fitness of a transport vehicle is lost or destroyed, the owner shall forthwith intimate the facts in writing to the registering authority by whom the certificate of registration was issued or by whom the registration mark was assigned under section 30 and shall apply in Form C.R.L.D. Tran. To the said authority for the issue of a duplicate certificate of registration of certificate of fitness.*

(2) *Upon receipt of an application in Form C.L.R.D. Tran. Together with a fee of rupees five the registering authority may, after making such enquiries as appear necessary and obtaining particulars of the original certificate of fitness from the Motor Vehicle Examiner or licensed Automobile Workshop by whom it was issued or last renewed, issue a duplicate certificate of registration and certificate of fitness in Forms G and I, respectively, clearly stamped "Duplicate" in red ink.*

(3) *No person shall be liable to be convicted of an offence under section 90 if, at any time when the certificate is demanded, he has already reported the loss or destruction thereof in accordance with the provisions of this rule and duplicate certificate has not been delivered to him.*

6. Rule 40 of the Khyber Pakhtunkhwa Motor Vehicle Rules, 1969 deal with the issues when the lost Registration is subsequently found. Rule 40 is reproduced below:-

**40. Procedure When a Lost Certificate is Subsequently Found:-**

*(1) When a duplicate certificate of fitness or certificate of registration has been issued upon representation that the original, has been lost and the original is afterwards found by the holder; the original certificate of fitness or certificate of registration shall be delivered forthwith to the registering authority.*

*(2) Any other person finding a certificate of fitness or certificate of registration shall deliver it to the holder or to the nearest police station.*

7. Rule 38 of the Khyber Pakhtunkhwa, Motor Vehicle Rules, 1969 is quite exhaustive and deal with the procedure how to deal with the issue to provide the duplicate copy of the Registration Book while Rule 40 only provides that where the original Registration book is found subsequently it shall be returned to the Registering Authority, but it is silent to the fact that which one of the Registration books, original or duplicate will remain in the field.

8. Initially vide office order dated 01.9.2008 of the Director General, Excise and Taxation, Khyber Pakhtunkhwa; Peshawar instructions were issued to the following effect. Para-2 is reproduced below:-

*"In order to facilitate the general public all Motor Registering Authorities are directed to consider the recovered computerized registration*

*book as original one and cancel and file the duplicate registration book on the basis of FIR/Naqal mad after observing all codal formalities".*

9. According to the respondents the letter dated 1.9.2008 has been superseded by office order dated 25.5.2012 of the same authority. Para-2 is reproduced below:-

*"In order to facilitate the general public and to stream line the office work all Motor registering authorities are directed to consider the recovered/found registration book as cancelled one as mentioned in rule 40 of Motor Vehicle Rules 1969. Therefore, the Office Order vide No.1628/ Taxation dated 01.09.2008 issued by this Directorate General as withdrawn with immediate effect".*

10. As observed earlier Rule 40 ibid reproduced above only refer to the fact that when the original Registration book is found subsequently, it shall be returned to the Motor Registration Authority but it is silent how to deal with it subsequently. The instructions issued vide office order dated 01.9.2008 of the Registration Authority were quite reasonable and appeal to reasons, however, the subsequent instructions issued vide office order dated 12.5.2012 is against the intension and plain reading of Rule 40 ibid and had given such construction, which it no where suggest.



11. It is by now well settled that construction of a statute should be beneficial to the citizen and if there could be

two interpretations of a provision of law in a statute, the one which was consistent with reasons should be adopted and the one which lead to absurdity or unreasonableness or patent injustice to a citizen should be avoided, therefore, the construction placed on a provision in a statute, should be such as would suppress the mischief and advance the remedy. Reliance placed on 2016 SCMR 646, 2015 SCMR 1494, PLD 2016 Peshawar-26 and 2013 P.Cr.L.J. 52 (KHC).

12. We having examined the Rules and the construction placed on it through two conflicting letters dated 01.9.2008 and 25.5.2012, and tends to resolve it by upholding the letter dated 01.9.2008 to be more reasonable and beneficial for the citizens as it suppress the mischief and advance the remedy.

13. For what has been stated above, we allow this writ petition and direct the respondents to hand over the original Registration book to the petitioner by cancelling the duplicate.

14. This writ petition is *allowed* in the above terms.

  
JUDGE  
  
JUDGE

Announced.  
Dated 09.06.2017  
\*T.Shah\*