

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.20189 of 2014

SIRI PSG Arts and
Science College for Women,
rep. By its Correspondent,
Palanisamy Gounder Thottam,
Trichengode Road,
Sankari Taluk,
Salem - 637 701. ... Petitioner

vs.

- 1.The Secretary,
Regional Transport Authority,
Sankari.
- 2.The Principal Secretary/
Transport Commissioner,
Chepauk, Chennai.
- 3.The State Transport Appellate Tribunal,
Chennai.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent made in Appeal No.118 of 2013 dated 30.06.2014 confirming the order of the second respondent made under proceeding No.R.20010/M5/2013 dated 12.7.2013 in rejecting the application for grant of endorsement of extention of the validity of permit granted by the first respondent in respect of the vehicles bearing Regn.No.TN 52 D 4798, TN 52 B 7502, TN 52 2700, TN 52 D 4821 and TN 52 B 0823 to ply in Erode District and quash the same and direct the second respondent to grant the endorsement of extention of the validity of permit granted by the first respondent in respect of vehicles bearing Regn.No.TN 52 D 4798, TN 52 B7502, TN 52 2700, TN 52 D 4821 and TN 52 B 0823 to ply in Erode District.

For petitioner : Mr.M.Palani

For respondents 1 & 2: Mr.A.Kumar,
Special Government Pleader
R3 : Tribunal

ORDER

This Writ Petition has been filed by SIRI PSG Arts and Science College for Women, represented by its correspondent, Salem, challenging the correctness of the impugned order passed by the State Transport Appellate Tribunal, Chennai in M.V.Appeal No.118 of 2013, dated 30.06.2014, in and by which, the order of the Principal Secretary / Transport Commissioner, Chennai, made in proceedings R.No.20010/M5/2013, dated 12.07.2013, rejecting the application filed by the petitioner for grant of endorsement of the extension of validity of permit granted by the first respondent in respect of the vehicles bearing Regn.Nos. TN 52 D 4798, TN 52 B 7502, TN 52 2700, TN 52 D 4821 and TN 52 B 0823 to play in Erode and Bhavani Regions, is confirmed. The second respondent/Transport Commissioner rejected the request of the petitioner for extension of validity of permit on the ground of distance factor, over speed to cover the long distance and safety of the travelling students and also inasmuch as already the above vehicles were permitted to play between Namakkal and Salem Districts, yet another extension of validity of permit between two more districts is not feasible.

2. In the affidavit filed in support of the Writ Petition, it is stated by the petitioner that it is an educational institution exclusively meant for ladies. The petitioner institution has been offering various faculties in Bachelor Degree as well as in P.G.Course ever since its establishment, namely, B.Sc (Maths), (Computer Science), B.Com, B.A. (English), B.C.A., and in P.G. Course, M.A.(English), M.Sc(Maths) M.Com and M.Sc (CS). Therefore, the petitioner institution attracts students not only from Salem Districts where the College is established but also from adjoining Districts such as Namakkal and Erode.

3. It is further submitted by the petitioner that the petitioner institution is providing transport facilities to the students who are coming far away from their respective home to educational institution and it does not charge any fare from the students for making use of the transport facilities. Thus, it is freely providing transport facilities to the students studying in the educational institution. While so, the second respondent issued a circular dated 7.1.2011 restricting the operation of the school bus for two districts only, namely for the parent district and one neighbouring district and accordingly, the first respondent issued a permit to operate in Salem District with an endorsement to ply in the Namakkal District, which is an adjoining and neighbouring District, but refused to grant endorsement to ply in Erode District, which is also another adjoining District. It is also the claim of the petitioner that Namakkal District extends upto Pallipalayam on the South West extending upto Kumarapalayam of the western side and in terms of the permit granted by the first respondent, it can operate its vehicles upto Pallipalayam from Sankari, which is a distance of 19 kms, and again from Pallipalayam to Erode, the distance is only 3 kms. Likewise,

it can operate its vehicles upto Kumarapalaym from Sankari, which is a distance of 20 km, and from Kumarapalaym to Bhavani, which is located in Erode District, at a distance of 4 km and from Bhavani to Andhiyur, which is at a distance of 18 km., and to operate buses to these places which are lying in Erode District, it sought for extention of validity of endorsement.

4. In this background, the grievance of the petitioner is that the students coming from these places, namely, Erode, Bhavani and Andhiyur, because of non-availability of College Bus, they have to pick up private buses or Government transport buses to reach their institution. Some times, these buses are also overcrowded and therefore, since the students are travelling on their own risk, the endorsement for neighbouring district, namely Erode District is sought for in order to cater to the needs of the students coming from Erode. As a matter of fact, an endorsement cannot be refused by the first respondent, in terms of Rule 153 read with Rule 155, when the petitioner institution made an application for endorsement of the validity of permit before the second respondent by its application dated 28.7.2012 in respect of vehicle bearing Regn.No.TN 52 D 4798, TN 52 B 7502, TN 52 2700, TN 52 D 4821 and TN 52 B 0823 enclosing necessary fee as prescribed under Rule 279 of the Tamil Nadu Motor Vehicle Rules. The said application was returned with some queries. After resubmission of the application with due compliance of all defects pointed out by it, the second respondent rejected the application on three grounds - firstly, that permitting the students to travel in a vehicle which is plying in more than one neighbouring district is not safety for the students; secondly, if the petitioner institution wants to ply the vehicle in more than two Districts, it may apply for temporary permit for every 7 days under section 87 of the M.V.Act with payment of due Motor Vehicle Tax and thirdly, they ignored a vital fact that by following such procedure, about 6269 educational institutions are getting temporary permits on payment of such tax and consequently, there is a generation of revenue to the Government.

5. Aggrieved over the order of the second respondent, the petitioner preferred a statutory appeal before the third respondent in M.V.Appeal No.118 of 2013 and third respondent dismissed the Appeal confirming the order of the second respondent as there was no infirmity or illegality in the order of the second respondent.

6. Mr.M.Palani, learned counsel appearing for the petitioner submitted that when the petitioner was issued with permit to operate their vehicles in Salem District with an endorsement to ply in Namakkal District, which is adjoining and neighbouring District, cannot refuse to grant endorsement to ply in Erode District too, which is also another neighbouring District. Placing reliance on Rule 155 of the Motor Vehicle Rules, he has submitted that the State Transport Authority on payment of fee specified in the Table under Rule 279 can grant permit for vehicles to ply on a road specified under Rule 153 for a distance from 100 to 160 kms partly on any road

or roads. The rule is very clear that the State Transport Authority is empowered to grant permit for the vehicles to ply on the route partly specified under Rule 153 for a distance of more than 100 kms. Therefore, the respondent cannot reject the request of the petitioner on the ground that the petitioner institution is plying the vehicle for more than 160 kms in 3 different Districts in respect of educational purpose. When the State Transport Authority has directed the petitioner to apply to obtain permit to ply their vehicles in more than two Districts under section 87 of the M.V.Act for temporary permit, they ought not to have rejected the request of the petitioner for getting regular permit to ply their vehicles in more than two Districts. More particularly, when Rule 155 enables the State Transport Authority to permit the vehicles to ply on a road lying for a distance of 160 kms, the reason given by the second respondent cannot be countenanced and as also the order of the third respondent. Therefore, the learned counsel appearing for the petitioner prayed that the impugned order be quashed and the Writ Petition be allowed.

7. A detailed counter affidavit has been filed by the respondents denying the allegations of the petitioner.

8. Mr.A.Kumar, learned Special Government Pleader appearing for the respondents, would submit that as pointed out by the learned counsel appearing for the petitioner, the State Transport Authority is empowered to grant extension of validity of permit for a distance more than 160 kms in respect of all other classes of Vehicles such as Stage Carriages and Contract Carriages but the petitioner sought for permit to ply more than 160 kms of route in three different Districts in respect of educational institution buses and educational institution vehicles are used to pickup students from various places and dropping them at the same places from where they have been picked up for the college. Therefore, it is risky to allow students to travel more than 320 kms up and down in a short span of time, which is not practically possible. Therefore, the second respondent, after taking into consideration of the safety of the travelling students, distance factor, over speed to cover the long distance, rightly rejected the request of the petitioner for extension of validity of the permit and the third respondent rightly dismissed the appeal and therefore, no interference can be called for.

9. Admittedly, in the present case, the petitioner is an educational institution established in 2009 and it is offering various UG and PG Courses as stated above. In view of the various courses being offered by the petitioner college, students not only from Salem District is joining the College but also from the adjoining Districts of Namakkal and Erode District. In order to facilitate the students to reach their institution, the petitioner college has been providing free transport facility to the students and the staff. In view of the fact that some students are also coming from Andhiyur and Erode, keeping in mind the interest of the students community to enable them to attend the College in time, the

petitioner institution applied for extension of validity of permit to ply vehicles in Erode District for short distance of 3 kms from Pallipalayam to Erode. The distance from Sankari to Parmathi via Thiruchengode is only a distance of 34 km and from Sankari to Pallipalayam, the distance is 19 km and both the distance clubbed together, it comes to 53 kms and from Pallipalayam to Erode, it is only 3 km, and therefore, the total distance travelled by the petitioner's vehicle from Namakkal District (via) Sankari to Erode, the distance is only 53 kms and, in the case of Bhavani, the distance from Sankari to Kumarapalayam is 20 km and from Kumarapalayam to Bhavani, it is only 4 km, and the total distance from Sankari to Bhavani is only 24 km and from Sankari to Andhiyur, it is 38 kms. As the endorsement is not granted by the first respondent, the petitioner made an application before the second respondent for extension of endorsement in terms of Rule 155 of the Tamil Nadu Motor Vehicle Rules. In this regard, it is relevant to extract Rule 155 of the Tamil Nadu Motor Vehicles Rules.

155. Through traffic permit and extension of validity of permit - (a) The State Transport Authority may on payment of a fee specified in the Table rule 279 grant in consultation with the Regional Transport Authority or authorities concerned, a permit for a vehicle to ply on a route lying partly on a road specified in rule 153 for a distance of more than one hundred and sixty kilometres and partly on any road or roads.

(b) The State Transport Authority may on payment of a fee specified in the Table under rule 279 extend the validity of a permit granted by any Transport Authority to such extended area or roads as it may deem desirable.

(c) The provisions of the Act and these rules relating to applications or permits and the grant, refusal, suspension or cancellation of permits, and all matters connected therewith, including appeals, shall apply to extension of the validity of such permits.

10. A mere reading of the above rule vividly states that the transport authority may on payment of fee, grant permit for vehicles to ply on a route lying partly on a road specified in Rule 153 of the Tamil Nadu Motor Vehicle Rules for a distance of more than one hundred and sixty kilometres and partly on any road or roads. The stand taken by the respondent in the counter is that the petitioner sought for permit for more than 160 kms of route in three districts in respect of educational institution buses. But, a perusal of the affidavit filed by the petitioner clearly shows that the distance between Pallipalayam to Erode is 3 kms, the distance between

Kumarapalaym and Bhavani is 4 km, the distance between Sankari and Bhavani is 24 kms and from Sankari to Andhiyur, the distance is only 38 kms. Therefore, the respondent/appellate authority, in my opinion, has not properly considered the distance between Pallipalayam and Erode, Kumarapalaym and Bhavani, Sankari and Andhiyur. Under Rule 155, it is clearly explained that the State Transport Authority is empowered to grant extension of endorsement for the vehicles to ply on route lying for a distance of more than 160 kms. In the light of the above reasons, the impugned judgment of the third respondent/The State Transport Appellate Tribunal, Chennai, is misconceived and the same is liable to be set aside.

11. Therefore, the impugned Judgment of the third respondent/The State Transport Appellate Tribunal, Chennai, as well as the order of the second respondent are set aside. The second respondent is directed to consider the Application of the petitioner afresh and grant endorsement of extension of the validity of permit within a period of six weeks from the date of receipt of a copy of this Order. Accordingly, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

asvm

To

1.The Secretary,
Regional Transport Authority,
Sankari.

2.The Principal Secretary/
Transport Commissioner,
Chepauk, Chennai.

3.The State Transport Appellate Tribunal,
Chennai.

1 cc to Mr. M.Palani, Advocate Sr.No.32306

1 cc to Government Pleader.Sr.No.32940/15

sv(co)

pmk.3.9.2015

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