

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.14139 of 2015
and M.P.No.1 of 2015

C.P.Kuriyakose

[Petitioner]

Vs

- 1 The Transport Commissioner /
State Transport Authority
Ezilagam, Chennai- 5.
- 2 Regional Transport Officer
Uthagamandalam Nilgiris.
- 3 The Secretary
Regional Transport Authority Wayanad
Kerala.

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the Respondents 1 & 2 herein from interfering with the Petitioner peaceful operation of his stage carriage service bearing Registration No. KL.12C3456 between Sultan Battheri to Kudukki in so far as it relates to 10.3 Kilometers enclave portion lying within Tamil Nadu State pursuant to the stage carriage permit bearing No. PST.12/647/2014 dated 17/07/2014 granted by the 3rd Respondent the Secretary Regional Transport Authority Wayanad Kerala State under the second proviso to Section 88(1) of the Motor Vehicles Act 1988.

For petitioner : Mr.K.Sridhar
For respondents : Mr.M.S.Ramesh, AGP

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O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

2. This writ petition has been filed for the issue of a writ of mandamus forbearing the Respondents 1 and 2 from interfering with the Petitioner's peaceful operation of his stage carriage service bearing Registration No. KL.12C3456 between Sultan Battheri to Kudukki in so far as it relates to 10.3 Kilometers enclave portion lying within

Tamil Nadu State pursuant to the stage carriage permit bearing No. PSt.12/647/2014 dated 17/07/2014 granted by the 3rd Respondent, the Secretary, Regional Transport Authority, Wayanad, Kerala State, under the second proviso to Section 88(1) of the Motor Vehicles Act 1988.

3. The petitioner is a bus operator in Kerala State owning stage carriage medium Bus (33 seater) bearing Registration No. KL.12C3456, pursuant to the permit granted by the 3rd respondent bearing Permit No.PSt.12/647/2014 dated 17/07/2014, which is valid till 16.07.2019 to ply between S.battheri to Kudukki, a distance of 24.7 kms. Of this route, 10.3 kms falls within Nilgiris district of Tamil Nadu State. It is the contention of the learned counsel for the petitioner that though the permit has been issued exercising powers under Section 88(1) of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act") the transport officials of Nilgiris District in the Kerala-Tamil Nadu border, where the 10.3 kms of the enclave portion lies are preventing the entry of the petitioner's bus and threatening to seize the same, by stating that in the absence of counter signature by the State Transport Authority of Tamil Nadu, the permit could not be operated within the enclave portion in Tamil Nadu. Hence, with regard to the operation of stage carriage service bearing Registration No. KL.12C3456 between Sultan Battheri to Kudukki, on the ground of violation of the provisions of Section 88 (1) of the Act, the petitioner made a representation on 06.08.2014, followed by a reminder on 08.01.2015. Since, there was no response, the petitioner is before this Court.

4. It is the specific case of the petitioner that Section 88(1) of the Act had not been considered.

5. The learned Additional Government Pleader submitted that the representation of the petitioner would be considered on merits and orders will be passed within a specified time as ordered by this Court.

6. In view of the same, without going into the merits of the case, the representations of the petitioner dated 06.08.2014, followed by a reminder dated 08.01.2015, shall be considered and necessary orders be passed by the respondents, after affording due opportunity to the petitioner, on production of material evidences. It is made clear that the petitioner is directed to approach the authority concerned within a period of two weeks along with any of the available materials so as to substantiate his claim and on such production, the authority concerned, after hearing the petitioner, shall pass orders on merits and in accordance with law on the said representations, within a period of four weeks thereafter.

The writ petition is disposed of with the above directions. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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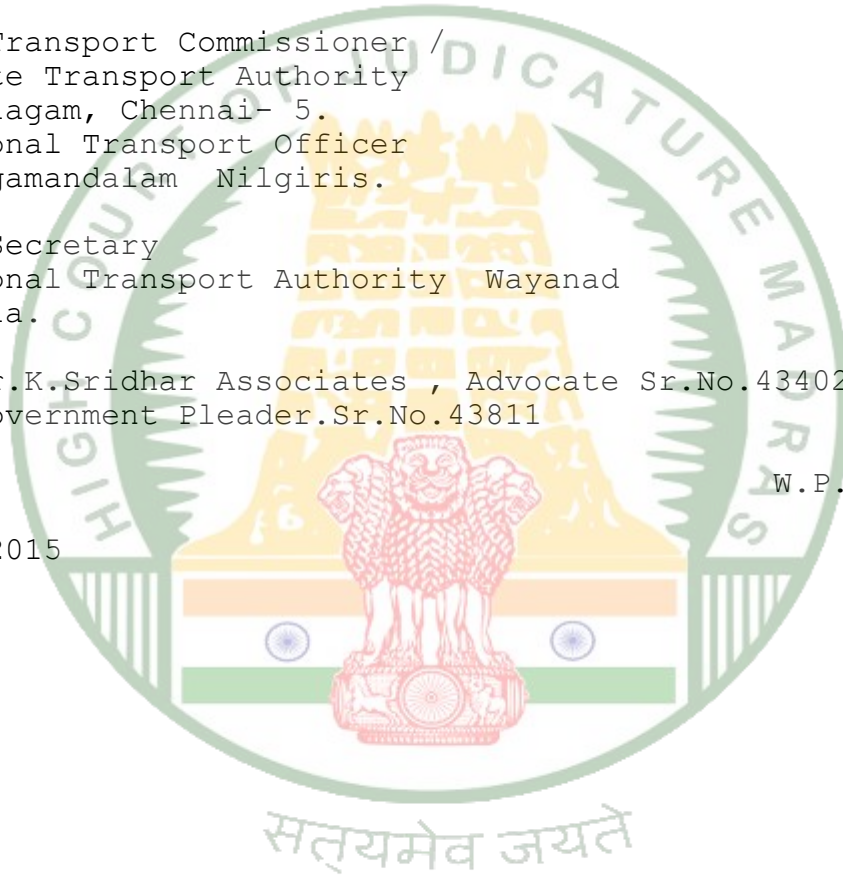
Sub Assistant Registrar

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To

- 1 The Transport Commissioner /
State Transport Authority
Ezilagam, Chennai- 5.
 - 2 Regional Transport Officer
Uthagamandalam Nilgiris.
 - 3 The Secretary
Regional Transport Authority Wayanad
Kerala.
- 1 cc to Mr.K.Sridhar Associates , Advocate Sr.No.43402
1 cc to Government Pleader.Sr.No.43811

ts(co)
pmk.19.8.2015

W.P.No.14139 of 2015



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