

In the High Court of Judicature at Madras

Dated: 17.08.2015

Coram:

The Honourable Mr. SANJAY KISHAN KAUL, Chief Justice
and
The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition No.16625 of 2015

Freedom Concept School
under Manickavasagam Education Trust
rep. by its Trustee Mr.M.Thiruvarul Peaceville
NH-46, Chennai Bangalore Highways
Poigai, Vellore District - 632114. .. Petitioner

vs.

1. Union of India
rep. by its Secretary
Ministry of Road, Transport and Highways
New Delhi.
2. National Highways Authority of India
rep. by its Chairman
G-5 & 6, Sector - 10, Dwarka
New Delhi 110 075.
3. Larsen & Toubro Krishnagiri Wallajahpet
Tollway Pvt. Ltd.
P.B.No.979, Mount Poonamallee Road
Manapakkam, Chennai - 600 089. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring Rules 4 and 5 of the National Highways Fee (Determination of Rates and Collection) Rules, 2008 as void and ultravires to the Scheme of National Highways Act of 1956.

For Petitioner : R. Karunakaran
For Respondents : Mr. P. Saravanan for R1
Mr. Su. Srinivasan
Asst. Solicitor General for R2
No Appearance for R3

O R D E R

(Made by The Hon'ble The Chief Justice)

Learned counsels for the first and second respondents have entered appearance and have raised an objection to the maintainability of the petition as framed.

2. It is the submission of the first two respondents that: (i) the grounds in the petition do not even state as to which provision of the National Highways Act, 1956, has been violated by Rules 4 and 5 of the National Highways Fee (Determination of Rates and Collection) Rules, 2008 and Collection) Rules, 2008; (ii) ground (a) makes a reference to the Notification dated 05.10.2010 issued vide S.O.2417(E) as irrational and unjust, but there is no challenge laid to that Notification; and (iii) in para 9, production of the original gazette notification is sought to be dispensed with with the copy only being filed, but the copy of the notification filed is not of the aforesaid notification and an inapplicable notification under the earlier rules for a different highway.

3. On hearing the learned counsel for the parties, we do believe that the petition as framed is not maintainable. It is very casual, does not deal with specifics and a challenge to statutory rules cannot be made in this manner. It would be well-nigh impossible for the respondents to file counter-affidavit in view of this nature of the pleadings.

4. We, thus, dismiss the writ petition. However, with liberty to the petitioner to file a proper petition in accordance with law, if so advised. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

ATR

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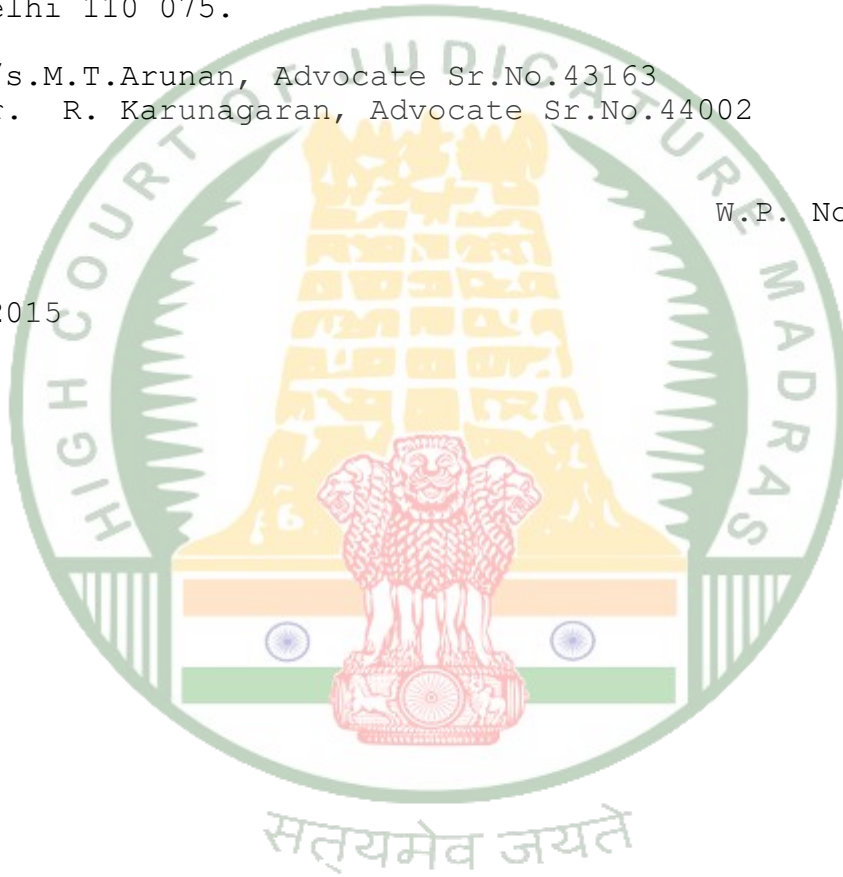
Copies to;

1. The Secretary
Union of India
Ministry of Road, Transport and Highways
New Delhi.
2. The Chairman
National Highways Authority of India
G-5 & 6, Sector - 10, Dwarka
New Delhi 110 075.

1 cc to M/s.M.T.Arunan, Advocate Sr.No.43163
1 cc to Mr. R. Karunagaran, Advocate Sr.No.44002

W.P. No. 16625 of 2015

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pmk.27.8.2015



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