

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P. Nos.23228 to 23231 of 2015

W.P. No.23228 of 2015 :

S.Selvaraj

...Petitioner

-vs-

1. The Transport Commissioner,
State Transport Authority,
Chepauk, Chennai - 600 005.

2. The Regional Transport Officer,
Poonamallee.

...Respondents

W.P. No.23229 of 2015 :

S.Anthony Ammal

...Petitioner

-vs-

1. The Transport Commissioner,
State Transport Authority,
Chepauk, Chennai - 600 005.

2. The Regional Transport Officer,
Chennai (North West),
Chennai.

...Respondents

W.P. No.23230 of 2015 :

G.Arunkumar

...Petitioner

-vs-

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1. The Transport Commissioner,
State Transport Authority,
Chepauk, Chennai - 600 005.
2. The Regional Transport Officer,
Chennai (North East),
Chennai.

...Respondents

W.P. No.23231 of 2015 :

P.Senthilkumar

...Petitioner

-vs-

1. The Transport Commissioner,
State Transport Authority,
Chepauk, Chennai - 600 005.
2. The Regional Transport Officer,
Chennai (North East),
Chennai.

...Respondents

PRAYER in all W.Ps. : This Writ Petition under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus to direct the second respondent herein to receive the application of the petitioner dated 20.06.2015, in Form CCPA (Contract Carriage Permit Application) and the prescribed fee for the grant of a Autorickshaw Permit and to consider the same and to pass orders in accordance with law.

For petitioner
in all WPs

सत्यमेव जयते : Mr.S.Govindraman

For respondent
in all WPs

: Mr.A.Kumar,
Special Government Pleader

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C O M M O N O R D E R

These four writ petitions have been filed by the petitioners seeking the common relief of issuing a Writ of Mandamus under Article 226 of the Constitution of India, to direct the Regional Transport Officer concerned to receive the applications of the petitioners in Form CCPA and the prescribed fee for the grant of auto rickshaw permit by considering their applications.

2. Learned counsel for the petitioners would submit that the petitioners herein are engaged in the transport business and more than a decade ago, the Transport Commissioner issued a circular imposing restrictions for the grant of auto rickshaw permits. In view of the said restrictions, the permits were transferred with premium and a group of persons made it a profitable business. Therefore, the auto rickshaw drivers were put into serious hardship. However, in the year 2010, the State Government issued order in G.O.Ms.No.453 Home (Transport III) Department dated 13.05.2010 lifting ban and thereafter granted permits on the applications submitted by the concerned persons. When the petitioners approached the concerned Regional Transport Officers for submitting applications along with the fee, the second respondent(s) refused to receive the applications along with the fee and orally informed that instructions were received from the office of the first respondent not to grant any fresh permits for auto rickshaws. The only contention put forth by learned counsel for the petitioners before this Court is that when the restriction imposed has been lifted by issuing G.O.Ms.No.453 Home (Transport III) Department dated 13.05.2010 almost five years ago and the second respondent(s) being aware of the lifting of ban, ought not to have refused to receive the applications from the petitioners. Since the respondents are ignorant of the said Government Order, all the petitioners are put to great prejudice, it is pleaded.

3. Mr.A.Kumar, learned Special Government Pleader appearing for the respondents also placed on record the Guidelines for Capacity of Urban Roads in Plain Areas. Pointing out Clause 8.3 of the said Guidelines, he sought to defend the action of the second respondent.

4. In an identical circumstance, I have already allowed a similar prayer with the following reasons in W.P. Nos. 13263 to 13279 of 2015 dated 29.04.2015 and the same is extracted hereunder:-

"4. This Court is unable to appreciate the above contention for the simple reason that when G.O.Ms.No.453 Home (Transport III) Department

dated 13.05.2010 was issued five years ago lifting the ban with immediate effect, with further direction that all those auto rickshaws that will ply in Chennai Metropolitan Area should run on LPG as per the existing guidelines, the second respondent(s) ought not to have refused to receive the applications for grant of auto rickshaw permit.

5. With the supposition that, owing to the increase in the volume of vehicles on the city roads, apart from large-scale traffic congestions, there is a steep rise in the rate of accidents, the respondents overzealously project that grant of Vehicle Permits is absolutely unjustified and unwarranted. It seems, they turned a blind eye to the ground reality that thousands of unemployed youth and many individuals struggling for survival, when find no job avenue open for them, ultimately go for self-employment like driving, operating auto-rickshaws of their own, etc. If the self-assumed reasons not to grant Auto-rickshaw permits as put forth by the respondents are accepted, I am afraid, such action would have adverse social implications due to frustration among the un-employed youth and other individuals at the bottom-level of the society whose main avenue of self-employment would be taken away. Similarly, based on other hypothetical apprehensions and presumptive reasons like over-urbanization, dumping of by-products, natural-habitat destruction, etc., if any absurd decision is taken for curtailing the permits to start small and large scale industries, growth in trade and commerce which is the backbone of the nation's economy would be endangered, thereby, the hard and odd repercussions resulting there-from like non-employment, unemployed youths going to antisocial activities like theft, women trafficking, begging etc., cannot be so simply set right. This Court intends to make it clear to the Authorities concerned that while they are bound to act only based on Rules and Regulations governing them, at the same time, they should also be alive to the social responsibility in applying the set of rules

in such a manner that none of their acts should disturb the essential concessions already made available to the public, in particular, to those who are socially and economically backward.

6. Therefore, in the light of the above G.O.Ms.No.453 Home (Transport III) Department dated 13.05.2010, the second respondent in each of the writ petition is hereby directed to receive the applications of the petitioners along with requisite fee forthwith and grant auto rickshaw permits within a period of two weeks from the date of receipt of a copy of this order.

7. With the above direction, these writ petitions are allowed. No costs".

5. This Court is unable to appreciate the above contention for the simple reason that when G.O.Ms.No.453 Home (Transport III) Department dated 13.05.2010 was issued five years ago lifting the ban with immediate effect, with further direction that all those auto rickshaws that will ply in Chennai Metropolitan Area should run on LPG as per the existing guidelines, the second respondent(s) ought not to have refused to receive the applications for grant of auto rickshaw permit.

6. With the supposition that, owing to the increase in the volume of vehicles on the city roads, apart from large-scale traffic congestions, there is a steep rise in the rate of accidents, the respondents overzealously project that grant of Vehicle Permits is absolutely unjustified and unwarranted. It seems, they turned a blind eye to the ground reality that thousands of unemployed youth and many individuals struggling for survival, when find no job avenue open for them, ultimately go for self-employment like driving, operating auto-rickshaws of their own, etc. If the self-assumed reasons not to grant Auto-rickshaw permits as put forth by the respondents are accepted, I am afraid, such action would have adverse social implications due to frustration among the un-employed youth and other individuals at the bottom-level of the society whose main avenue of self-employment would be taken away. Similarly, based on other hypothetical apprehensions and presumptive reasons like over-urbanization, dumping of by-products, natural-habitat destruction, etc., if any absurd decision is taken for curtailing the permits to start small and large scale industries, growth in trade and commerce

which is the backbone of the nation's economy would be endangered, thereby, the hard and odd repercussions resulting there-from like non-employment, unemployed youths going to antisocial activities like theft, women trafficking, begging etc., cannot be so simply set right. This Court intends to make it clear to the Authorities concerned that while they are bound to act only based on Rules and Regulations governing them, at the same time, they should also be alive to the social responsibility in applying the set of rules in such a manner that none of their acts should disturb the essential concessions already made available to the public, in particular, to those who are socially and economically backward. In these background I have already allowed similar prayers.

7. Therefore, in the light of the above G.O.Ms.No.453, Home (Transport III) Department, dated 13.05.2010, the second respondent in each of the writ petition is hereby directed to receive the applications of the petitioners along with requisite fee forthwith and grant auto rickshaw permits within a period of two weeks from the date of receipt of a copy of this order.

8. In view of the above, these writ petitions are allowed. No costs.

Sd/-
Assistant Registrar(J)

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Sub Assistant Registrar

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To

1. The Transport Commissioner,
State Transport Authority,
Chepauk, Chennai - 600 005.
2. The Regional Transport Officer,
Poonamallee.
3. The Regional Transport Officer,
Chennai (North West),
Chennai.

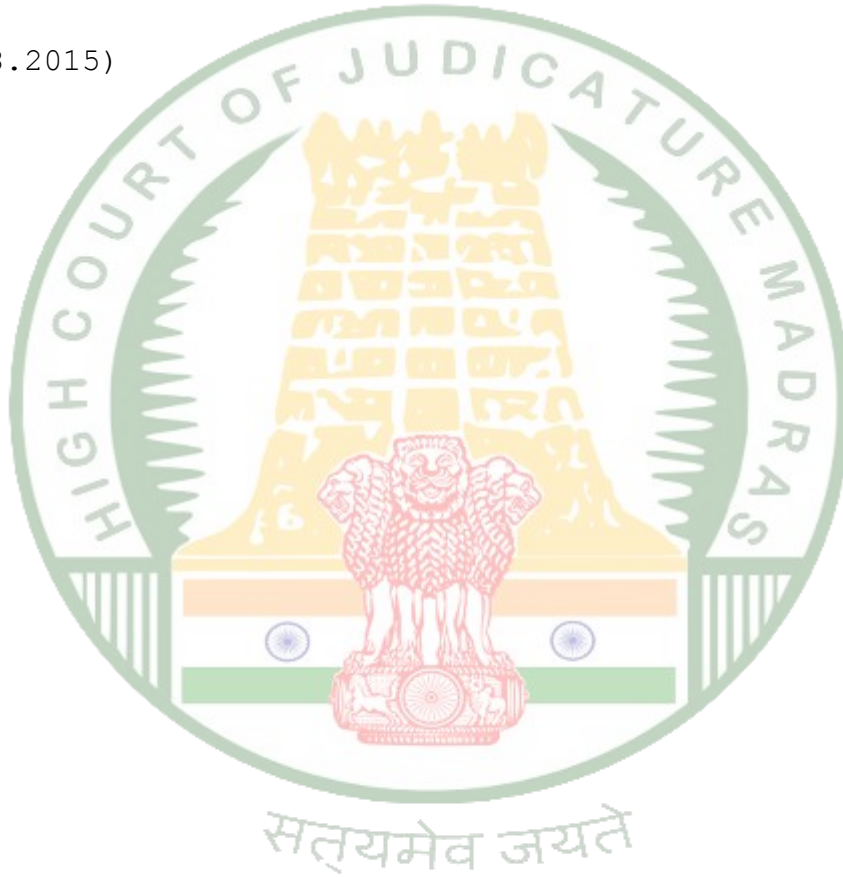
4. The Regional Transport Officer,
Chennai (North East),
Chennai.

4 CCs to Mr.S.Govindraman, Advocate SR.No. 40024

1 CC to the Government Pleader, SR.No. 39554

W.P. No. 23228 to 23231 of 2015

ala (CO)
PSI (21.08.2015)



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