

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2015

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.25889 of 2015

and

M.P.No.1 of 2015

S.Raja

.. Petitioner

Vs.

The Regional Transport Authority
cum The Regional Transport Officer,
Krishnagiri.

.. Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the respondent vide Na.Ka.No.38378/E4/2014 dated 20.11.2014 and to quash the same and further to direct the respondent to consider the petitioner's application dated 24.08.2014 in Form CCPA for the grant of auto rickshaw permit in respect of the vehicle bearing temporary Regn. No.TN 23 TMP 3905.

For Petitioner ... Mr.S.Govindaraman

For Respondent .. Mr.M.S.Ramesh,
Addl. Govt. Pleader

ORDER

Challenging the order of the respondent dated 20.11.2014, whereby the application of the petitioner for grant of permit in respect of his auto rickshaw bearing temporary Regn. No.TN 23 TMP 3905 was rejected on the ground of non-production of records within the stipulated time, the petitioner has filed this writ petition.

2.It is the case of the petitioner that he had been granted contract carriage auto rickshaw permit vide proceedings dated 24.02.2011 and he had also been directed to produce valid records of the vehicle within a period of three months. Due to financial crunch, the petitioner could not purchase the vehicle within three months and he purchased a new auto rickshaw at Chennai and got it temporarily registered at Vellore. Since the records had not been produced by the petitioner as directed at the time of granting permit, the permit was

revoked. Hence the petitioner submitted a fresh application, which, the respondent refused to receive. Subsequently, the petitioner submitted an application dated 24.08.2014. Since the said application was not considered, he made a representation dated 13.10.2014 to the District Collector. Since no action has been taken even after that, the petitioner filed a writ petition in W.P.No.31111 of 2014 and the same was dismissed by this Court on 05.12.2014, recording the submission of the learned Additional Government Pleader that order dated 20.11.2014 had already been passed on the petitioner's representation. Challenging the said order, the petitioner is before this Court.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

4. Learned counsel for the petitioner would submit that the respondent has no authority to pass the impugned order, without affording any opportunity to the petitioner.

5. On the other hand, the learned Additional Government Pleader would submit that the petitioner did not approach the authorities after submitting the application. Though the petitioner was directed to produce all the required documents within a period of three months from the date of obtaining temporary registration, he failed to do so and hence the impugned order came to be passed.

6. However, learned counsel for the petitioner submitted that before passing the impugned order, no opportunity was given to the petitioner so as to produce all the documents as required.

7. According to Section 80(2) of the Motor Vehicles Act, it is mandatory to give opportunity before passing any order rejecting the application for permit. Section 80(2) of the Motor Vehicles Act reads as follows:

"80. Procedure in applying for and granting permits:-

(1)....

(2) A Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of Section 66 shall not ordinarily refuse to grant an application for permit of any kind made at any time under this Act:

Provided that the Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of Section 66 may summarily refuse the application if the grant of any permit in accordance with the application would have the effect of increasing the number of stage carriages as fixed and specified in a notification in the Official Gazette under clause (a) of

sub-section (3) of Section 71 or of contract carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of Section 74:

Provided further that where a Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of Section 66 refuses an application for the grant of a permit of any kind under this Act, it shall give to the applicant in writing its reasons for the refusal of the same and an opportunity of being heard in the matter."

8. Since the petitioner has not been given an opportunity of hearing, before passing the impugned order, I am inclined to set aside the impugned order on the ground of violation of principles of natural justice. Accordingly, the impugned order is set aside and the matter is remanded back to the respondent for passing fresh orders, after affording due opportunity of hearing to the petitioner. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

9. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Regional Transport Authority
cum The Regional Transport Officer,
Krishnagiri.

+1 cc to Mr.S.Govindaraman Advocate sr.49052
+1 cc to the Government Pleader sr.48954

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