

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.3211 of 2015
and M.P.No.1 and 2 of 2015

V.Parameswaran

... Petitioner

-Versus-

- 1.The Regional Transport Authority,
Theni District, Theni.
- 2.The Secretary,
Regional Transport Authority,
Theni District, Theni.
- 3.The State Transport Appellate Tribunal,
HighCourt Building,
Chennai 600 104.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Certiorari calling for the records of the 3rd respondent made in I.A.No.3 of 2015 in Appeal No.3 of 2015 dated 08.01.2015 and to quash the above said order.

For Petitioner : Mr.M.Palani

For Respondents : Mr.M.S.Ramesh, AGP

ORDER

Challenging the order of the 3rd respondent dated 08.01.2015 made in I.A.No.3 of 2015 in Appeal No.3 of 2015 refusing to grant an order of interim stay of operation of the order of the 1st respondent made in R.No.34218/A4/2013, dated 03.12.2014, cancelling the permit granted to him, the petitioner has come forward with this writ petition along with M.P.No.1 of 2015 seeking to stay the operation of the above said order of the 1st respondent.

2. Heard Mr.M.Palani, the learned counsel appearing for the petitioner and Mr.M.S.Ramesh, the learned Additional Government Pleader appearing for the respondents 1 & 2 and also perused the records carefully.

3. Though M.P.No.2 of 2015 alone is listed today for hearing, having regard to the facts and circumstances of the case and also the submissions made by the learned counsel on either side, by consent, the main writ petition itself is taken up for final disposal.

4. The petitioner claims to be a stage carriage operator. According to him, he is operating a stage carriage service bearing Registration No. TN 47 R 4141 on the route Theni to Kumali. The permit was originally granted to one Mrs.Rani. According to the petitioner, he obtained the permit in his name by way of transfer and the same was, in fact, duly approved by the 1st respondent. Pursuant to the said transfer, he became the permit holder and owner of the bus as well as spare bus. Subsequently, there were disputes between the husband of the said Mrs.Rani and the petitioner and there were litigations one after the other between the petitioner and Mrs.Rani with regard to renewal of fitness certificate. At last, the permit of the petitioner came to be cancelled by the 1st respondent. Challenging the same, the petitioner preferred an Appeal before the 3rd respondent in Appeal No.3 of 2015 along with an interlocutory application in I.A.No.3 of 2015 for stay and in that interlocutory application, on 08.01.2015 the 3rd respondent refused to grant interim order of stay. Challenging the said order, the petitioner has come forward with the present writ petition.

5. The miscellaneous application in M.P.No.3 of 2015 has been filed seeking interim order of stay of operation of the order of the 1st respondent cancelling the permit of the petitioner, wherein, this court, by order dated 10.02.2015, has granted interim stay. Subsequent to the above, the respondents 1 and 2 in the main writ petition have come forward with a miscellaneous petition in M.P.No.2 of 2015 seeking to vacate the interim order of stay granted by this court on 10.02.2015 in W.P.No.3211 of 2015.

6. On an earlier occasion, this court, by order dated 07.11.2014 in M.P.No.2 of 2014 in W.P.No.17961 of 2014 filed by the petitioner herein, while granting an order of interim stay of operation of the order of the Motor Vehicle Inspector, Theni, dated 22.08.2014 made in Bus/7081/2014 AA 22 15640, directed the authority to complete the enquiry and pass appropriate orders. Pursuant to the same, an order came to be passed on 03.12.2014 in R.No.30605/A4/2013 by the 1st respondent herein thereby cancelling the permit in respect of the bus bearing registration Number TN 47 R 4141 w.e.f. 03.12.2014. The said order came to be challenged before the State Transport Appellate Tribunal in Appeal No.3 of 2015 and along with the said appeal, the petitioner herein filed an interlocutory application in I.A.No.3 of 2015 praying for grant of stay of operation of the order of the 1st respondent cancelling the permit. The above said Interlocutory Application came to be rejected by the appellate tribunal by order dated 08.01.2015. It is the said order now under challenge in this writ petition.

7. This court, while considering the prayer of the petitioner for stay, at the time of admission, has granted interim stay to the following effect:-

"Interim stay is granted as prayed for, however, this court made it very clear that as the Regional Transport Authority has cancelled the permit with effect from 03.12.2014, the petitioner shall not be allowed to ply the vehicle. The Tribunal is directed to expedite the matter and complete the same within a period of six months from the date of receipt of a copy of this order.

Notice to the respondents returnable by first week of April, 2015."

It is the said order now sought to be vacated by the transport authority.

8. On the face of it, such a prayer need not be made by the respondents 1 and 2 since the matter was already directed to be disposed of by the State Transport Appellate Tribunal within a period of six months on merits. The said period is already over now. Hence, suffice it to direct the Appellate Tribunal to dispose of the Appeal within a period of eight weeks.

9. At this juncture, the learned counsel appearing for the petitioner submitted that a Division Bench of this Court, by judgement dated 10.12.2012 made in W.A.No.2104 of 2012, under similar circumstances has decided the jurisdiction of the officer connected to the issue.

10. In view of the above, the writ petition is disposed of. The 3rd respondent is directed to take up the appeal for disposal. While hearing the appeal, the appellate tribunal is directed to take into consideration the orders passed by the Division Bench of this Court referred to supra also and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order after affording due opportunity to the petitioner as well as the other parties. Consequently, connected MP Nos.1 and 2 of 2015 are closed.

-s/d-

Assistant Registrar(Records)
dt:29/9/2015

True Copy

Sub-Assistant Registrar

To

- 1.The Regional Transport Authority, Theni District, Theni.
- 2.The Secretary, Regional Transport Authority,Theni District, Theni.
- 3.The State Transport Appellate Tribunal,High Court Building,
Chennai 600 104.

+1 cc to Government Pleader sr.50813

+1 cc to M/S.M.Palani Advocate sr.50354

W.P.No.3211 of 2015

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