

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NOs. 9334 to 9337 of 2015
and
M.P. Nos. 1 to 1 of 2015

K.T. Rajasekara
S.R.S. Travels

.. Petitioner in all W.Ps.

Vs.

1. The Transport Commissioner
State Transport Authority
Chepauk, Chennai-5.

2. The Regional Transport Officer
Hosur.

.. Respondents in all WPs

PRAYER in all W.Ps.: These Writ Petitions have been filed under Article 226 of the Constitution of India to issue an order of Writ of Certiorarified Mandamus, calling for the records of the impugned order of the 1st respondent vide R. Nos. 64974 to 64976 and 64978/A3/2012 dated 29.01.2015 and to quash the same and further to direct the 1st respondent to grant a Contract Carriage Omni Bus Permit to the petitioners.

For Petitioners : Mr. S. Govindraman
in all Wps

For Respondents : Mr. V. Sethuraman, AAG
in all Wps Assisted by Mr. N. Srinivasan, AGP

COMMON ORDER
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Four Writ Petitions have been filed by Mr. K.T. Rajasekara, challenging the stereo type orders passed by the Transport Commissioner, State Transport Authority, the first respondent herein, rejecting the requests of the petitioner, when he applied for Contract Carriage Omni Bus Permits.

2. Assailing the impugned orders passed by the first respondent, learned counsel appearing for the petitioner would submit that the petitioner is engaged in the business of Transport and with an aspiration to secure Contract Carriage Omni Bus Permits and operate vehicles, he applied for the same in the office of the first respondent on 16.11.2012 in the prescribed form with prescribed fee. On receipt of the applications, the first respondent called for report from the Regional Transport Officer, Hosur regarding the proof of residence, experience in the transport field, financial stability arrears of the petitioner to the Government and the recommendation of the 2nd respondent thereof. Subsequently, the second respondent inspected the premises, enquired the petitioner and thereafter prepared reports and forwarded the same to the first respondent, recommending for grant of permits. However, the first respondent without even accepting the recommendations made by the second respondent, rejected all the applications on the ground that there are more number of Contract Carriage Omni Bus permits in existence, that there is an unhealthy competition between the operators of the Contract Carriage Omni Bus, that most of the contract carriage omni bus permits are misused by the operators by collecting exorbitant fares during the festival seasons and that the applicant is an existing operator of contract carriage omni bus and it is sufficient for their operation and maintenance. Such an unreasonable and arbitrary refusal takes away the livelihood of the petitioners, he pleaded.

3. Continuing his argument, learned counsel appearing for the petitioner would submit that when the second respondent, the Regional Transport Officer, Hosur, on receipt of the notice from the first respondent calling for a report, submitted a detailed report recommending for grant of permits, the first respondent wrongly rejected the request of the petitioner, over looking the recommendation made by the second respondent. Therefore, the impugned order passed by the first respondent is highly arbitrary and therefore the same deserves to be quashed.

4. Mr. V. Sethuraman, learned Additional Advocate General appearing for the respondents would submit that the reasoning given by the first respondent in the impugned order, although may not stand to any good reason, the same may be set aside with a direction to the first respondent to re-consider the representations afresh. He further requested one week time for grant of permits to the petitioner.

5. But, this Court is unable to agree with the said request for the following reasons:

It is pertinent to refer to Section 80 of the Motor Vehicles Act (59 of 1988), which is given as under:

"80 Procedure in applying for and granting permits.

(1) An application for a permit of any kind may be made at any time.

(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.

(3) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or by altering the route or routes or area covered by it, or in the case of a stage carriage permit by increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit shall be treated as an application for the grant of a new permit:

Provided that it shall not be necessary so to treat an application made by the holder of stage carriage permit who provides the only service on any route to increase the frequency of the service so provided without any increase in the number of vehicles: Provided further that,—

(i) in the case of variation, the termini shall not be altered and the distance covered by the variation shall not exceed twenty-four kilometres;

(ii) in the case of extension, the distance covered by extension shall not exceed twenty-four kilometres from the termini, and any such variation or extension within such limits shall be made only after the transport authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or extended or any part thereof.

(4) A Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66 may, before such date as may be specified by it in this behalf, replace any permit granted by it before the said date by a fresh permit conforming to the provisions of section 72 or section 74 or section 76 or section 79, as the case may be, and the fresh permit shall be valid for the same route or routes or the same area for which the replaced permit was valid:

Provided that no condition other than a condition which was already attached to the replaced permit or which could have been attached thereto under the law in force when that permit was granted shall be attached to the fresh permit except with the consent in writing of the holder of the permit.

(5) Notwithstanding anything contained in section 81, a permit issued under the provisions of sub-section (4) shall be effective without renewal for the remainder of the period during which the replaced permit would have been so effective."

Section 80 of the Act provides procedure in applying for and granting permits. The Legislature has liberalized the concept and procedure for grant of permits temporary or permanent and an application for permit of any kind may be made any time and the Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of Section 66 of the Act of 1988 shall not ordinarily refuse to grant permit any time made under the Act. Therefore, in such view of the matter, in my view, refusal to grant permit to the petitioner by the first respondent cannot be sustained.

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 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.

7. Thus, by taking note of the above said aspects, the impugned orders passed by the first respondent refusing to grant permit to the petitioner cannot stand to any good reason and accordingly, they are set aside. Consequently, the writ petitions stand allowed. No Costs. Connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

avr/rkm

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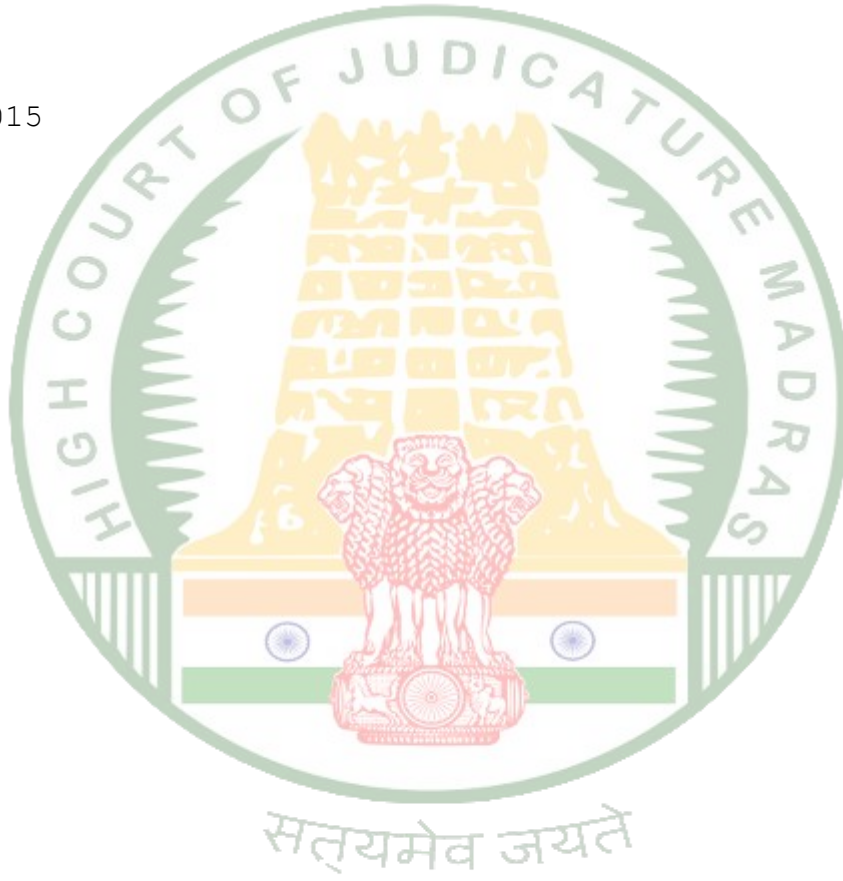
1. The Transport Commissioner
State Transport Authority
Chepauk, Chennai-5.
2. The Regional Transport Officer, Hosur.

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+4 cc to Mr.S.Govindraman, Advocate sr.21383
+2 cc to Government Pleader sr.21378

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