THE HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 15065 of 2006

ORDER: (per Hon'ble Sri Justice Challa Kodanda Ram)

The order dated 15.07.2006 passed by the Joint Transport Commissioner, RTA Hyderabad, whereby the demand of difference of tax of Rs.83,160/- was confirmed, is challenged before this Court.

2. Brief facts of the case are that on 04.07.2006 at about 7 AM, the petitioner's vehicle was intercepted at Ranga Reddy East Checkpost while the vehicle was proceeding to Mount Opera from Habsiguda with 13 passengers. On verification, the registered owner was found to have paid tax for the quarter ending 30.09.2006 at the rate of Rs.892/- per seat per quarter, thus totalling to Rs.42,840/-. On the assumption that the tax rate applicable would be at the rate of Rs.2,625/-, thus totalling to Rs.1,26,000/- per quarter, as per Clause 4(v)(b) of G.O.Ms.No.68 dated 13.04.2006, a show cause notice was issued to the petitioner demanding to pay the difference of tax of Rs.83,160/-, for plying without permit. The petitioner submitted his explanation on 14.07.2006. The explanation submitted by the petitioner was not accepted and the demand of Rs.83,160/-, which is the difference of tax, was confirmed by

the impugned order.

3. Heard learned counsel for the petitioner and the learned Government Pleader.

4. At the outset, learned counsel for the petitioner submits that the order dated 15.07.2006 is laconic and does not contain any reasons; and hence, the same being a non-speaking order and a quasi-judicial order, is liable to be set aside. Learned counsel further submits that even assuming that the allegation made against the petitioner that his vehicle is plying without permit is accepted, the tax that could be demanded would fall under Clause 4(v)(c) of G.O.Ms.No.68, dated 13.04.2006 and the same has to be at the rate of Rs.1,207/- per seat. This is on account of the fact that, indisputably and undoubtedly, the petitioner was plying his vehicle within Ranga Reddy district and inasmuch as the vehicle is registered with the permit at Hyderabad district, paragraph 4(v)(c) of the said G.O., would be the appropriate entry under which the petitioner could be taxed. As a matter of fact, in terms of the interim order granted by this Court on 21.07.2006, the petitioner had paid the tax in terms of paragraph 4(v)(c) and his vehicle was released and, hence, the learned counsel submits that the impugned order is liable to set aside.

5. Though the writ petition is of the year 2006, no counter is filed denying the allegations made by the petitioner.

6. Paragraph 4(v)(c) of G.O.Ms.No.68 dated 13.04.2006

reads as under:

> **"(c) Contract carriages plying within the Home District and any one contiguous district, for every passenger (other than driver)"** **1207 50**

7. The impugned order states that the vehicle is plying to Mount Opera from Habsiguda. The vehicle is registered at Hyderabad and the permit is granted at Hyderabad. In that view of the matter, Clause 4(v)(c) will be the appropriate entry under which the petitioner can be taxed. So far as Clause 4(v)(b) is concerned, the same would apply in respect of intra-State routes. Clearly, Clause 4(v)(b) is not applicable in the present case. Considering that the tax that has been paid by the petitioner as the tax applicable, no further orders are required to be passed in the writ petition. Hence, the impugned order is liable to be set aside.

6. Accordingly, the writ petition is allowed by setting aside the order dated 15.07.2006. No costs. Miscellaneous petitions, if any pending, shall stand closed.

G. CHANDRAIAH, J

CHALLA KODANDA RAM, J

03rd September, 2015

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