IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF APRIL

TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

<u>WRIT PETITION No.10811 of 2015</u>

BETWEEN

Y. Sambi Reddy.

... PETITIONER

AND

The Deputy Transport Commissioner, Guntur District and another.

...RESPONDENTS

The Court made the following:

<u>ORDER</u>:

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

2. Petitioner states that he holds a Stage Carriage Permit No.PSP No.14/G/1010 on the Town survey route Gujjanagundla to RTC Bus Stand viz., J.K.C. College Road, Navabharat Nagar, Vidyanagar, Koritipadu, Lodge Centre, Taluk Office, A.C. College, Municipal Market and old Bus Stand. Petitioner states that he was running a bus bearing No.AP 07 TB 7896 and stopped plying it from 01.07.2014 by filing stoppage report on 30.06.2014. The said permit was valid up to 29.03.2015. Petitioner states that he filed an application for replacement of the said vehicle by vehicle No.KL 07 AE 4704 on 10.10.2014

and the same is pending.

3. Petitioner states that while no orders are passed on the said application for replacement of the vehicle, he was given a show cause notice and an order was passed demanding tax of Rs.43,440/- and penalty of Rs.7,920/- vide orders of the Deputy Transport Commissioner dated 16.02.2015. Aggrieved thereby, petitioner has preferred WP.No.5306 of 2015, which is pending before this court. Meanwhile, since petitioner's present stage carriage permit due to expire on 29.03.2015, he made an application for renewal thereof on 04.03.2015. The Deputy Transport Commissioner, under the impugned order dated 27.03.2015, however, declined to consider petitioner's request for renewal of stage carriage permit for a further period of five years from 30.03.2015 merely on the ground that petitioner's WP.No.5306 of 2015 is pending before this court and by virtue of that,
the renewal application cannot be considered and the demand draft submitted by the petitioner seeking renewal was refunded along with the impugned order. The said order of the Deputy Transport Commissioner dated 27.03.2015 is questioned in this writ petition.

4. From the narration of facts, as above, it is evident that WP.No.5306 of 2015 filed by the petitioner relates to and questions the earlier order of the Deputy Transport Commissioner dated 16.02.2015 whereunder a demand against the petitioner was made for payment of tax by not accepting the petitioner's claim that the stoppage report was given and the vehicle was stopped. That order dated 16.02.2015 is subject matter of WP.No.5306 of 2015 and in the event of petitioner succeeding in the writ petition, at best, the demand raised would be set aside and in the event of petitioner not succeeding in the said writ petition, the demand would attain finality and will have to be enforced against the petitioner.

5. In view of that, I do not see any nexus between the earlier writ petition and the present request for renewal of permit, which the petitioner is seeking. As stated above, even if petitioner loses the aforesaid writ petition, the demand can be enforced against the petitioner and the tax demanded can be recovered. However, the renewal application of the petitioner does not depend upon the result of WP.No.5306 of 2015. Hence, the application for renewal filed by the petitioner has to be independently considered on its own merits.
The impugned order is, therefore, set aside. Petitioner's application for renewal shall be reconsidered by respondent No.1 on merits and after giving notice as prescribed under

Section 81 of the Motor Vehicles Act,

in accordance with law, the Deputy Transport Commissioner shall pass appropriate orders thereon expeditiously, preferably, within two weeks from the date of receipt of a copy of the order. Petitioner is also permitted to resubmit the demand draft to respondent No.1 forthwith. It is, however, made clear that any order of renewal, if passed in favour of the petitioner, shall be independent of liability to tax imposed on the petitioner by order of respondent No.1 dated 16.02.2015 and in the event of dismissal of the earlier writ petition, respondent No.1 will be at liberty to recover the same tax demanded from the petitioner in accordance with law.

The writ petition is accordingly allowed. As a sequel,

the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

April 16, 2015

LMV