

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.09.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice R.MAHADEVAN

W.P.No.34128 of 2016

Puducherry Makkal Vizhippunarch
Eilyakkam,
rep. by its General Secretary,
P.Saravanan,
No.35, Vinayakarkoil Street,
Thilarshpet, Puducherry 605 009. ... Petitioner

Versus

1.Union of India
rep. by its Chairman
National Highways Authority of India,
G-5 and 6, Sector 10, Dwarka,
New Delhi 110075.

2.The Chief General Manager
(Coord-I & Public Grievances)
National Highways Authority of India,
G-5 and 6, Sector 10, Dwarka,
New Delhi 110075.

3.The Project Director,
Project Implementation Unit,
No.10, Govindasamy Nagar,
Vazhadareddy Post,
Villupuram 605 401

4. The Secretary,
Ministry of Surface/Road Transport,
New Delhi 110001.

5.The District Collector cum Regional
Transport Authority,
Villupuram District, Villupuram.

6.The Chief Secretary to Government,

Government of Puducherry,
Puducherry.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the respondents 1 to 4 to shift the Moratandi Toll Plaza from its present location as per Rule 8 of the National Highways Fee (Determination of Rates and Collection) Rules 2008 and provide a service Rule for the National Highway users in Puducherry region on the basis of the petitioner's representation dated 25.03.2015.

For Petitioner ::: Mr.M.Gnanasekar
For Respondents ::: Mr.R.Vijayakumar
AGP for R.3 and R.5

O R D E R

(The Order of the Court was made by The Hon'ble
The Chief Justice)

The petitioner is aggrieved by the location of the Toll Plaza at its present location, in view of Rule 8 of the National Highways Fees (Determination of Rates and Collection) Rules, 2008.

2. The petitioner claims to be an organisation seeking to get justice to people. It is the allegation of the petitioner that the people living in Puducherry and its suburbs are forced to travel to Sedarapet on account of the area being an industrialised area, as also for educational purposes. Medical facilities are also available in JIPMER Hospital. We may note at this stage itself that possibly, the expression used 'Force' is not correct, as there is no compulsion, but citizens travel to different areas voluntarily for their occupation and education. These people are required to cross the Toll Plaza and pay the full Toll fee for the 40 kilometres travelled on the National Highways. In this behalf, the petitioner has relied on Rule 8 of the National Highways Fee (Determination of Rates and Collection) Rules, 2008, which reads as under:

'8.Location of toll plaza:- (1)The
executing authority or the concessionaire, as
the case may be, shall establish a toll plaza
beyond a distance of ten kilometres from a
municipal or local town area limits:

Provided that the executing authority may,
for reasons to be recorded in writing, locate or
allow the concessionaire to locate a toll plaza
within a distance of ten kilometres of such
municipal or local town area limits, but in no

case within five kilometres of such municipal or local town area limits:

Provided further that where a section of the national highway, permanent bridge, by-pass or tunnel, as the case may be, is constructed within the municipal or town area limits or within five kilometres from such limits, primarily for use of the residents of such municipal or town area, the toll plaza may be established within the municipal or town limits or within a distance of five kilometers from such limits.

(2) Any other toll plaza on the same section of national highway and in the same direction shall not be established within a distance of sixty kilometres:

Provided that where the executing authority deems necessary, it may for reasons to be recorded in writing, establish or allow the concessionaire to establish another toll plaza within a distance of sixty kilometres:

Provided further that a toll plaza may be established within a distance of sixty kilometres from another toll plaza if such toll plaza is for collection of fee for a permanent bridge, by-pass or tunnel."

3. It is the case of the petitioner that the aforesaid Rules are being violated.

4. The petitioner made a representation on 25.03.2015 to the National Highways Authority, which was duly replied to on 23.04.2015. It has been categorically stated that the location of the Toll Plaza has been finalised after taking into consideration all provisions of the said Rules. Not only that, there is a provision of Monthly Pass for local traffic in the following terms:

"There is a provision of Monthly Pass in the above fee notification for Local Traffic Category I and II for residential, industrial, etc., vehicles which are within a radius of ten kilometres from the Toll Plaza and more than 10 kms but within 20 Kms from the Toll plaza respectively."

5. The letter states that those who travel only 4 Kms can avail of the concession by producing the relevant documents at the Toll Plaza. There is some other communication also thereafter on account of the petitioner seeking further information.

6. On hearing the learned counsel for the petitioner, we are

of the view that apparently, there is no violation of the rules and there is a solution for the residents on account of the Pass available on showing the relevant documents. Submissions of the learned counsel for the petitioner seek to suggest that his case is that they should not be made go through the Toll Plaza at all. It is is not possible for the citizen group to decide where the Toll Plaza should be located as long as it conforms to the rules and really causes no financial inconvenience.

7. We are not inclined to entertain this writ petition and it is accordingly dismissed, leaving the parties to bear their own costs.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

ksr

To

1. The Chairman, Union of India,
National Highways Authority of India,
G-5 and 6, Sector 10, Dwarka, New Delhi 110075.

2. The Chief General Manager (Coord-I & Public Grievances)
National Highways Authority of India,
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4. The Secretary, Ministry of Surface/Road Transport,
New Delhi 110001.

5. The District Collector cum Regional Transport Authority,
Villupuram District, Villupuram.

6. The Chief Secretary to Government,
Government of Puducherry, Puducherry.

+1cc to Mr.M. Gnanasekar, Advocate, S.R.No.55959

+1cc to the Government Pleader, S.R.No.56071

MSM(CO)

EU(06/10/2016)

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