

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.36976 of 2016

E.Harichandran

... Petitioner

Versus

The Regional Transport Authority,
Vellore District

.. Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent, relating to the order made in R.No.16858/A5/2016, dated 29.08.2016, to quash the same and consequently, to direct the respondent herein to renew the petitioner's auto rickshaw permit, forthwith, in respect of vehicle No.TN23-BT-0996, as applied for.

For Petitioner : Mr. K.Hariharan

For Respondent : Mr. K.J.Sivakumar,
Govt. Advocate

O R D E R

Heard Mr.K.Hariharan, learned counsel appearing for the petitioner and Mr.K.J.Sivakumar, learned Government Advocate, appearing for the respondent. By consent of the learned counsel for both sides, the writ petition itself is taken up for final disposal.

2. The petitioner is a driver-cum-owner of an auto rickshaw, bearing No.TN23-BT-0996, for which, permit was valid up to 13.06.2016. The petitioner is required to file an application for renewal of the permit 15 days prior to the expiry of the period. However, due to illness, the petitioner could not file the application within the time limit and has filed the same, after a delay of about 68 days. The said Application has been rejected by the respondent stating that the petitioner could

have filed the application for renewal of permit well before he had fallen sick. Somewhat identical issue was considered by this Court in the case of S.Thirupathy v. The Regional Transport Authority, Vellore District, Vellore and two others, in W.P.No.32995 of 2016, dated 21.09.2016, wherein also, the application for renewal of auto rickshaw permit was submitted belatedly on account of the ill health of the permit holder and the application was rejected. The said order was put to challenge in the said writ petition and the writ petition was allowed, by order, dated 21.09.2016. The operative portion of the order reads as follows:-

"2. ... The petitioner requested the 1st respondent to condone the delay on account of the fact that the petitioner was undergoing medical treatment. To substantiate his case, the petitioner produced a certificate from the Doctor, a Civil Assistant Surgeon in the Government Hospital, Tirupathur dated 08.01.2016. The doctor had certified that upto January 2016, the petitioner was advised bed rest and was under his active treatment. With these facts, the petitioner requested the 1st respondent to condone the delay in terms of section 81[3] of the Act - "Notwithstanding anything contained in sub-section 2, the Regional Transport Authority or the State Transport Authority has the case may be, may entertain an application for renewal of a permit, after the last date specified in that sub-section, if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified". The cause pleaded by the petitioner for the delay was on account of his sickness duly certified by the doctor. The 1st respondent while considering the application, has accepted the medical certificate; but has made a very narrow interpretation stating that the petitioner could have sent the application by post and need not come in person to the office for renewal. However, the 1st respondent has not recorded any mala fides on the part of the petitioner for submitting the application belatedly. The law of limitation has been founded on public policy not with an intention to defeat the rights of the parties, but only to ensure that the parties do not adopt dilatory tactics for certain mala fide reasons. In the instant case, the petitioner is not going to be benefited by submitting the

application belatedly. That apart, the 1st respondent has not disbelieved the medical certificate produced by the petitioner. Therefore, this Court is of the view that it is a fit case where the delay in filing the application for renewal of Auto Rickshaw Permit should be condoned....."

3. The reasons assigned, in the above referred to order, can very well be applied to the facts of the present case also. The respondent has not doubted the veracity or correctness of the medical certificate issued, certifying that the petitioner was undergoing treatment and was advised take complete bed rest. That apart, the petitioner is not going to benefit by purposely submitting the application belatedly. Further more, the delay of 68 days is not an inordinate one.

4. Considering the over all facts and circumstances of the case, this Court is of the considered view that the delay in filing the application should be condoned. Accordingly, the writ petition is allowed and the impugned order passed by the respondent is set-aside and the delay in filing the application stands condoned and the respondent is directed to entertain the petitioner's renewal application and if the same is found to be in order, grant renewal in terms of the provisions of the Motor Vehicles Act and Rules framed thereunder, within a period of three weeks from the date of receipt of a copy of this order.

5. With the above directions, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

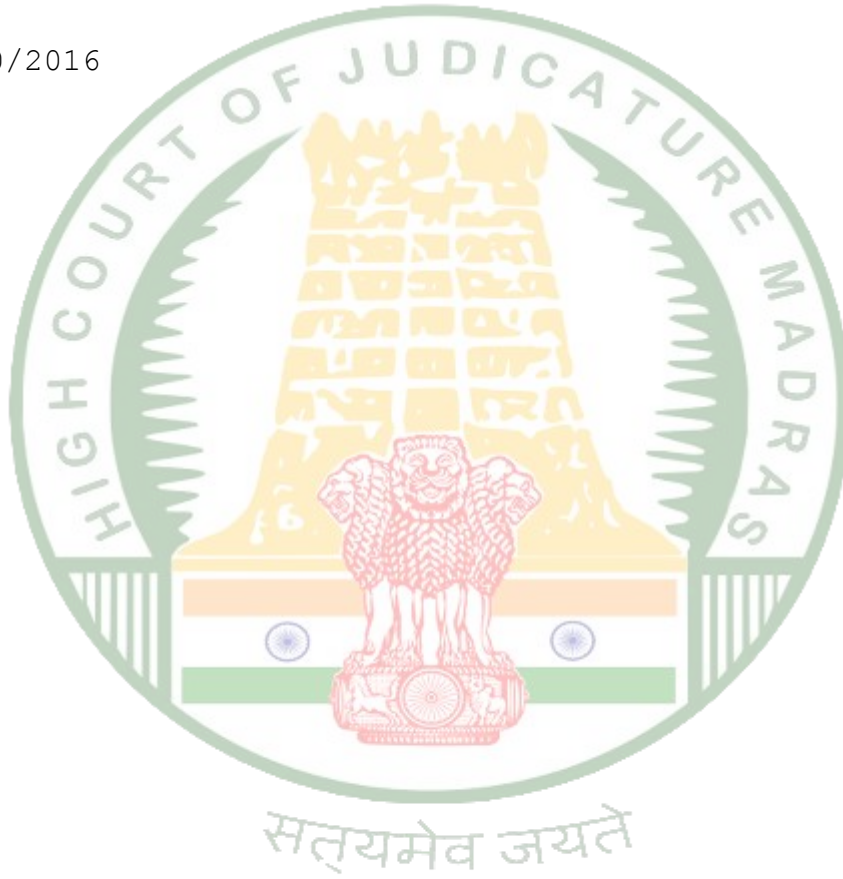
srk

To
The Regional Transport Authority,
Vellore District

+1 CC to M/s. K. Hariharan, Advocate Sr.No.59845
+1 C to Government Pleader, Sr.No.60537

W.P.No.36976 of 2016

GMI (CO)
MD : 26/10/2016



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