

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.Nos.39169 & 39170/2016

S.S.M.Lakshmiammal Matriculation
Higher Secondary School, Post Box
No.161, Bypass Road, Komarapalayam
-638183, Namakkal District rep.by its
Correspondent Mr.K.Elavarashen

Petitioner in both
writ petitions

Vs

The Regional Transport Officer
Regional Transport Office,
Tiruchengode, Namakkal District. ...

Respondent in both
writ petitions

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent to receive and pass orders on the applications to issue the Fitness Certificate dated 31.10.2016 and 04.10.2016 in respect of the vehicles bearing Registration Nos.TN-34-C-6396 and TN-46-0639.

For Petitioner in
both writ petitions : Mr.R.Sankaranarayanan
For Respondent in
both writ petitions : Mr.S.Navaneetham, AGP

सत्यमेव जयते

COMMON ORDER

Heard Mr.R.Sankaranarayanan, learned counsel appearing for the petitioner and Mr.S.Navaneetham, learned Additional Government Pleader appearing on behalf of the respondent and with the consent on either side, the writ petitions are taken up for final disposal.

2 The petitioner, in these writ petitions, is a Matriculation Higher Secondary School at Komarapalayam. This is the fourth time, the petitioner is before this Court, seeking for appropriate directions to enable them to ply their School

Buses which are exclusively used for transporting children to the School from the neighbouring villages.

3 Earlier, the petitioner had filed three writ petitions in WP.Nos.28302 to 28304/2016, wherein they sought for a direction upon the respondent therein to renew the permit granted in respect of three other buses and for issuance of Fitness Certificate. The written instructions given by the respondent to the learned Government Pleader stated that the recognition of the School had lapsed and therefore, the respondent would not be in a position to consider the application for renewal of permit of the School Buses and for grant of Fitness Certificate. The said stand taken by the respondent was rejected by this Court and a direction was issued in those writ petitions on 29.08.2016. For better appreciation, the operative portion of the order is quoted herein below:-

".....

3.The written instruction given by the respondent to the learned Government Advocate dated 23.08.2016 also refers to the said objections stating that the recognition given to the petitioner institution had expired on 21.02.2013 and in spite of the lapse of three years, the petitioner has not obtained renewal of recognition and therefore, the petitioner's application for fitness certificate has been returned with a direction to the petitioner to represent the same along with the renewal of the recognition granted by the Education Department.

4.The petitioner has established by documents produced before this Court that till date, the Education Department has not disposed of the application for recognition. Further, it is seen that the petitioner institution is also a recognised examination centre for both 10th and 12th standard public examination. The application for recognition is pending and the clarification sought for by the Director of Matriculation Schools was sent by the Inspector of Matriculation Schools, Erode on 25.01.2016. Further, the petitioner has enclosed all other relevant records which they have filed along with their application for renewal of recognition before the Education Department. As long as the application for renewal or recognition has not been rejected and kept pending, it cannot be stated that the petitioner institution has to close down. However, the

respondent cannot take action on the said issue and it is for the Education Department to take appropriate action, that too, after disposal of the application for renewal of application. The petitioner has also filed supplementary affidavit in all the writ petitions stating that their application for renewal for recognition is still pending.

5. In the light of the above, the writ petitions are disposed of by directing the respondent to accept the petitioner's application for issuance of fitness certificate which shall be submitted with all other documents and the respondent shall consider the application without insisting upon an order of recognition from the Education Department in the light of the fact that the application is yet to be disposed. Similarly, there will also be a direction to the respondent to consider the application submitted by the petitioner for renewal of permit for the vehicles for which application has been filed. The above direction shall be complied with by the respondent within a period of two weeks from the date of receipt of a copy of this order. No costs."

4 Thus, the objection raised in the earlier writ petitions were that there was no renewal of recognition and this Court found that the application for renewal of recognition has not been disposed of by the Educational Department and held that, that can hardly be a reason for the respondent to refuse the grant of Fitness Certificate or renewing the permit of the transport buses. After the order passed by this Court, the respondent has complied with the directions issued therein and renewed the permit in respect of those three buses and also granted Fitness Certificates. Now, the petitioner is before this Court once again, in respect of two other buses, stating the same problem.

5 It appears that certain local political functionaries who are enmical towards the petitioner / Institution has been writing vexatious complaints against the respondent to the higher authorities. Therefore, it appears that the respondent is reluctant to consider the application on his own accord and has driven the petitioner to come before this Court to obtain appropriate orders to strengthen its hands. As long as there no valid reason for refusing to grant Fitness Certificate to the

petitioner's vehicles, as it is seen that they have complied with all the conditions required to be fulfilled by the School buses. The respondent should consider the petitioner's application for renewal of the permits/Fitness Certificates.

6 Accordingly, the writ petition stands disposed of and there will be a direction to the respondent to receive the petitioner's applications dated 31.10.2016 and 04.10.2016 respectively and grant Fitness Certificate to the buses bearing Registration Nos. TN-34-C-6396 and TN-46-0639, after inspecting those buses and ensuring that the petitioner fulfills the norms prescribed by the Government for school buses. The above direction shall be complied with by the respondent within a period of two weeks from the date of receipt of a copy of this order.

7 The writ petitions stand disposed of with the above direction. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP
To
The Regional Transport Officer
Regional Transport Office,
Tiruchengode, Namakkal District.

+1cc to Mr.R. Sankaranarayanan, Advocate, S.R.No.64155
+1cc to the Government Pleader, S.R.No.64645

vrjk (CO)
md (17/11/2016)

WP.Nos.39169 & 39170/2016