



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)Nos.12805 of 2016

and

W.M.P(MD) .No.9691 of 2016

Minor S.Santhanavetrivel
rep. by his father and guardian
D.S.Senthivel

.. Petitioner

Vs.

1.The Joint Transport Commissioner-cum
-Appellant Authority,
Madurai.

2.The Regional Transport Officer,
Madurai(North),
Madurai.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the R.No.3669/A2/2015 dated 07.05.2016 passed by the first respondent herein, quash the same and direct the second respondent to refund the fine amount as already paid.

For petitioner : Mr.T.Padmanabhan
For Respondents : Ms.T.R.Janarthanam
Additional Government Pleader

ORDER

Minor S.Santhanavetrivel, represented by his father, has challenged the correctness of the order passed by the Appellate Authority-cum-Joint Transport Commissioner, Madurai in R.No.3669/A2/2015, dated 07.05.2016, contending that when the petitioner is entitled to reasonable opportunity to put forth his case both before the Original Authority, and also before the Appellate Authority, without even giving a reasonable opportunity, the first respondent has wrongly passed the impugned order, therefore he has come to this Court.

2. Mr.T.R.Janarthanam, learned Additional Government Pleader takes notice for the respondents.

3. Heard both sides.

4. This Court is not able to find any merit in the petitioner's submission. A reading of the impugned order clearly shows that the petitioner is having a spare bus bearing Registration No.TN-58-AF-2291, which was stopped and checked by the Motor Vehicle Inspector/Grade-II, Enforcement Wing, Coimbatore, on 21.10.2015, at about 3.10 a.m. in front of the bus stand, Coimbatore, noticed the following violations:-

1. the vehicle is covered by spare bus permit to ply in place of route buses of the permit holder in the event of



temporary break down etc. No evidence was produced to prove that the vehicle is permitted to ply on the route Coimbatore to Madurai. But at the time of check, the vehicle was proceeding from Coimbatore to Madurai with 57 passengers. Thus, the vehicle was operated on an unauthorized route without a valid permit.

2. Trip sheet was not maintained and produced for verification.
3. The driving license was not carried and produced for verification.
4. A.V.T. form not carried by the driver.
5. Four dazzling head lamp were fitted in the vehicle.
6. Multi-tone air horn was fitted in the vehicle.
7. Fitness certificate was not carried and produced for verification.
8. Insurance certificate was not carried and produced for verification.
9. The driver was not in the prescribed uniform.
10. Fare has been collected from individual passengers and the vehicle was operated unauthorisedly from Coimbatore to Madurai as an express omnibus."

5. In view of the aforesaid violations, the Regional Transport Authority, Madurai, insisted punishment of suspending the permit for 30 days with an option to compound the offence for Rs.9,000/- in lieu of suspension under Section 86(1) of Motor Vehicles Act, 1988, read with Rule 206 of the Tamil Nadu Motor Vehicle Rules, 1989, and the petitioner paid the said amount. The first respondent finding that the permit holder/petitioner has used the spare bus as a contract carriage Omnibus for hire and that the said act is attracting payment of additional tax, held that the petitioner is liable to pay additional tax of Rs.1,52,625/-. Therefore, the contention that the petitioner was not given personal hearing before passing the impugned order, cannot be accepted. The first respondent/appellate authority has rightly considered the finding of the facts recorded by the original authority, and dismissed the appeal holding that the petitioner is liable to pay additional tax of Rs.1,52,625/-, which does not warrant interference of this Court. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/

Assistant Registrar(W)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Joint Transport Commissioner-cum-Appellant Authority, Madurai.

2. The Regional Transport Officer, Madurai (North), Madurai.

+1cc to M/S.T. Padmanabhan, Advocate in SR.No.38499

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