

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos.10474, 10477, 10490 and 10492 OF 2016

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COMMON ORDER:

Since all these writ petitions raise a common issue, they are taken up together, heard and being disposed of by this common order.

In all these writ petitions, the action of the respondent-Corporation in trying to recover various amounts from the petitioners on the ground that during the period 2011-2013 excess payments have been made to them, is challenged. Petitioners are bus operators, who have contracts with the respondent-Corporation under which they are running buses on hire basis. While so, notices were issued to the petitioners in all these cases alleging that excess payments were made during the years 2011 to 2013 and as such, the said amounts are required to be recovered. It was further indicated in the impugned notices that the amounts shall be recovered from the running bills from the month of February, 2016 onwards. It is the case of the petitioners that most of the petitioners have purchased the buses from previous owners and they were not put on notice of the alleged excess payments, no opportunity was given to the petitioners even to verify whether any such excess payments were made and if so what are the amounts involved. It is their contention that without there being pre-determination of the alleged excess payments, impugned notices were issued by the Corporation unilaterally declaring that the amounts shall be recovered from the month of February, 2016 onwards and as such the said action of the respondent-Corporation is arbitrary and against the principles of natural justice apart from affecting their cash flow and business.

Considering the nature of dispute, the learned Standing counsel was directed to obtain instructions. Mr. Ravi Babu, learned Standing counsel appearing for the respondent-Corporation, on instructions, submitted that the petitioners would be specifically intimated the exact amounts, which are due and payable by them. Till such intimations are made, the Corporation would not make any recoveries from the petitioners. However, he submits that after intimation to respective bus owners with regard to the amounts payable by them, the Corporation would be entitled to recover the same.

In the light of the submissions made by respective counsel, as it is the case of the petitioners that at no point of time they were informed about the excess payments made, it would be in the interest of both the parties to work out a solution by sitting across through mutual negotiations. It cannot be said that the services of the petitioners would not be required in future by the Corporation as the petitioners are the owners of buses which are being used by the Corporation. In other words, there is an element of mutuality wherein the Corporation is required to protect its interest as well as the interest of petitioners. In that view of the matter, till such determination is made with regard to the amounts to be recovered from the petitioners, the hire amounts to which the petitioners are entitled to from time to time shall not be withheld. However, it is made clear that once the determination is made either by mutual agreement or by determination by the Corporation itself, the Corporation would be entitled to recover the same subject to the rights of the petitioners available to them in law.

Subject to above observations, all the writ petitions are disposed of. There shall be no order as to costs.

Miscellaneous petitions pending consideration, if any, in the
Writ Petitions shall stand closed in consequence.

Justice Challa Kodanda Ram

1st April, 2016.

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