

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.3191 of 2017

A.Ganesan

... Petitioner

Vs.

The Secretary
Regional Transport Authority
Vellore.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the respondent made in R.No.A2/65715/2016 dated 23.12.2016 and to quash the same, consequently direct the respondent herein grant the renewal of Autorickshaw permit as applied for by the petitioner herein in respect of Vehicle TN-09-H-8384 forthwith.

For Petitioner : Mr.K.Hariharan

For Respondent : Mr.R.Venkatesh
Government Advocate

O R D E R

1.Issue Notice. Mr.R.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondent. With the consent of the learned counsels for parties, the writ petition is taken up for hearing and final disposal.

2.By virtue of the captioned writ petition, a direction is sought to quash the order dated 23.12.2016 and to direct the respondent to renew the petitioner's permit pertaining to Autorickshaw owned by him.

2.1.To be noted, the Autorickshaw said to be owned by the petitioner bears the following Registration No., i.e.,TN-09-H-8384.

3.Admittedly, the petitioner's permit expired on 01.05.2016, and therefore, under the provisions of Section 81 (2) of the Motor Vehicles Act, 1988 (in short, the Act), the

petitioner was, concededly, required to file an application for renewal, 15 days prior to its expiry.

3.1.The petitioner, however, filed an application for renewal of permit, after a delay of nearly 183 days.

4.A perusal of the impugned order shows that in support of his application for renewal, the petitioner appeared before the respondent on 28.11.2016. The impugned order, further reveals that the petitioner had indicated to the respondent that the application for renewal could not be moved within the prescribed time as he was ill.

5.I am informed by the learned counsel for the petitioner that a medical certificate dated 21.11.2016, issued by the Ramachandra Hospital, Vellore was filed with the application for renewal of permit. The respondent, as is evident, rejected the application for renewal. The reasons given in the impugned order are as follows:

"The permit holder has appeared on 28.11.2016 and stated that due to his illness he could not submit his renewal application in respect of TN09H 8384 for the period from 01.05.2016 to 30.04.2021 within the time. But the reason stated by the applicant is not acceptable one. Due to the negligence of the applicant, the purpose of issuing of permit for the public purpose was defeated.

Hence, in exercise of powers delegated to me, I the Secretary, Regional Transport authority, Vellore do hereby reject the application for renewal of permit in respect of Autorickshaw TN09H 8384 as the application was not submitted in time as specified in Sec 81(2) of M.V.Act, 1988."

6.Mr.Venkatesh, who appears for the respondent says that the delay was un explained and therefore, the rejection was in order.

7.Having heard the learned counsels appearing for the parties and perused the record, according to me, the impugned order has been passed, without the respondent addressing himself as to the cause for delay. Though, the respondent in the impugned order, as indicated above, notes that the petitioner had indicated that he could not move the application for renewal of permit, within the time prescribed under Section 81(2) of the Act, the respondent simply notes that the said reason "is not acceptable [an] one". The respondent goes on to say that due to

the negligence of the petitioner, the purpose of issuing the permit for public purpose was defeated.

8. According to me, the respondent ought to have noted that the medical certificate placed on record which indicated that the petitioner was advised treatment and to rest, for the period between 14.04.2016 to 20.11.2016, and that application for renewal had been moved in close proximity of the period of remission. Therefore, to my mind, the delay ought to have been condoned.

9. I am also unable to agree with the respondent that there was negligence on the part of the petitioner in not moving the application within the prescribed time. Public purpose, for which, permits are granted to run Autorickshaws has to be balanced with the interest of those who hold permits. These are people who do not have much wherewithal and therefore, depriving them of livelihood, in my view, would ultimately, result in detriment to public interest, as there will be people who will be without employment and their unemployment would in turn impact the lives of members of their family who, in most cases would be dependent on their income.

10. Furthermore, it is not disputed by the learned counsel for the respondent, that the respondent had the power to condone the delay, if good and sufficient reason was shown. This power was available admittedly, to the respondent under Section 81(3) of the Act.

11. Therefore, in my view, it is clear that the respondent has exercised his jurisdiction with material irregularity. Accordingly, as prayed, I am inclined to quash the order dated 23.12.2016. The delay in preferring the application for renewal is condoned. The respondent is directed to deal with the application on merits. Needless to say, the said exercise will be carried out by the respondent with due expedition, though, not later than four weeks from the date of receipt of a copy of the order.

12. The writ petition is disposed of, in the aforementioned terms. However, there shall be no order as to costs.

sd/
Assistant Registrar(CO)

/true copy/

Sub Assistant Registrar

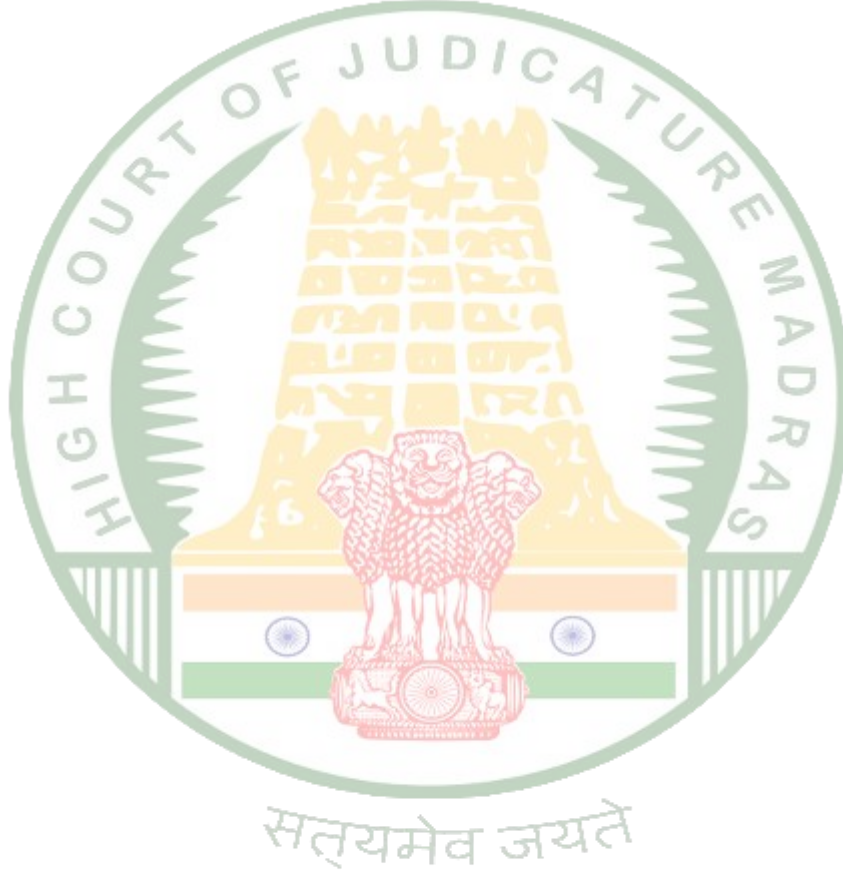
To

The Secretary
Regional Transport Authority
Vellore.

+1cc to Mr.K.Hariharan, Advocate SR.No.8445

W.P.No.3191 of 2017

SK (CO)
GN (03/03/2017)



WEB COPY