

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.Nos.7232, 9370,9371 10531 and 11834 of 2006
and
M.P.Nos. 7941, 10362, 10364, 11901,13434 of 2006

- 1.Tvl.Sri. Kamadhenu Transports
rep.by its partner
M.Semburaj
No.105A, Pallipalayam road
Rajagoundampalayam
Suriyanpalayam
Tiruchengode.
.. Petitioner in
W.P.No.7232 of 2006
- 2.Tvl.K.R.Nagar Transports (P) Ltd.,
Rep.by its Managing Director
S.S.Rajendran
3A(4) Sivasubramaniam Chettiar Street
Tiruppur.
.. Petitioner in
W.P.No.9370 of 2006
- 3.G.Indirani
Prop.Sri Hari Transports
W/o.R.Govindaraj
24A Thriunagar Colony
Sathy Taluk, Erode District.
.. Petitioner in
W.P.No.9371 of 2006
- 4.M/s.K.M.K.Transports
Rep.by its Managing Partner
M.M.Jaffer
No.4, Gandhi Maidhan
Mettupalayam 641 301.
.. Petitioner in
W.P.No.10531 of 2006
- 5.M/s.Anil Motors
Rep.by its Managing Partner
V.Krishnan
No.14, Murugannan Street
Pudupalayam
Gobichettipalayam Post
Erode District.
.. Petitioner in
W.P.No.11834 of 2006

Vs.

1.The Revenue Divisional Officer
Tiruppur.

2.The Regional Transports Officer
Tiruppur.

... Respondents in all
W.P.Nos.

Prayer : Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the first respondent made in Naka.No.6697/2004/A1 dated 31.12.2005 and quash the same so far as it affects the interest of the petitioner.

For Petitioners in
all W.P.Nos. : Mr.M.Palani

For Respondents in
all W.P.Nos. : Mr.S.V.Duraisolaimalai,
Additional Government Pleader

C O M M O N O R D E R

Heard Mr.M.Palani, learned counsel for the petitioner and Mr.S.V.Duraisolaimalai, learned Additional Government Pleader appearing for the respondents.

2. All the five writ petitions arise out of identical issues and grounds and therefore, all the writ petitions are taken up together for common disposal.

3. All the writ petitioners are private bus operators and were issued with a valid permit for the Bus route earmarked by the second respondent. They are aggrieved by the impugned order passed by the first respondent dated 31.12.2005, stating that the buses operated by the writ petitioners must be terminated only at the new bus stand and should not be sent to the old bus stand at Thennampalayam, Tiruppur. According to the petitioners, the said action on the part of the first respondent amounts to variation of permit conditions and therefore, the petitioners ought to have been given notice of personal hearing before such action is initiated.

4. The learned counsel for the petitioners would submit that the Regional Divisional Officer, the first respondent herein has no jurisdiction to vary permit condition, as he is not the authority recognized under the Motor Vehicles Act/Rules. Therefore, the resolution dated 31.12.2005 by the first respondent directing the Private Transport Operators, the

petitioners herein, to halt at the new bus stand and not to proceed to old bus stand, suffered from jurisdictional error and the same is without the authority of law.

5. According to the learned counsel for the petitioner, the said legal issues had been settled to the effect that the Revenue Divisional Officer has no authority to pass orders regulating the motor vehicles' movement under the provisions of the Motor Vehicles Act/Rules. The said legal position has been admitted by the learned Additional Government Pleader representing the respondents. However, in the counter affidavit filed in the present proceedings, it is stated that the first respondent merely acted in place of the second respondent, namely Regional Transport Officer in proceedings dated 27.06.2003 and 29.07.2003 and therefore, the said action cannot be construed as without the authority of law. Mere consequential direction issued by the first respondent cannot be said as without jurisdiction.

6. Per contra, the learned counsel for the petitioner would submit that with regard to the proceedings of the second respondent in R.No.30234/A3/2003 dated 27.06.2003 and 29.07.2003, on the subject matter of legal issue, very recently, the learned Judge of this Court has passed an order, allowing a batch of writ petitions on 07.09.2017 in W.P.No.21334 of 2005 batch. In those writ petitions, the aforesaid proceedings dated 27.06.2003 of the second respondent was put to challenge and those writ petitions came to be allowed on the ground that the principles of natural justice was violated and no opportunity was afforded to the transport operator before issuing the said proceedings.

7. In view of the above position, the learned counsel for the petitioner would submit that the consequential resolution of the first respondent dated 31.12.2005, has no sanctity, apart from the jurisdictional error pointed out by him. Therefore, in all, that the impugned order dated 31.12.2005, cannot be countenanced both in law and on facts and the same is liable to be set aside.

8. This Court has gone through the rival submissions of the learned counsel appearing for the parties. After perusing the material and pleadings placed on record, this Court is of the view there is considerable force in the contention of the learned counsel appearing for the petitioner that the impugned proceedings of the first respondent dated 31.12.2005 is without authority of law, as the first respondent is not vested with the power under the provisions of the Motor Vehicles Act/Rules. Therefore, the impugned action by the first respondent is without any jurisdiction and the same is liable to be interfered with.

9. Moreover, even assuming that resolution dated 31.12.2005 is only consequential action in pursuance of proceedings of the second respondent dated 27.06.2003 and 29.07.2003, the said proceedings of the second respondent having been set aside by this Court, in the recent order dated 07.09.2017 in the aforementioned batch of the writ petitions, the impugned order cannot independently stand. Hence, even on this ground, the impugned order is liable to be interfered with.

10. For the aforesaid reasons, this Court has no hesitation in allowing the writ petitions. The impugned order passed by the first respondent in Na Ka.No.6697/2004/A1 dated 31.12.2005 is hereby set aside. Accordingly, the Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

dna/rts

To

1.The Revenue Divisional Officer
Tiruppur.

2.The Regional Transport Officer
Tiruppur.

+5 ccs to M/s.M.Palani Advocate sr 82698 to 82702
+2 ccs to Govt Pleader sr 83304,82898

सत्यमेव जयते W.P.Nos.7232, 9370,9371,10531
and 11834 of 2006

rsI(co)
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