IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2017

CORAM :

The Hon'ble Mr.JUSTICE M.SUNDAR

W.P. No.17877 of 2000

T.Chellaswamy,
Prop: Lakshmi Travels,
6-A, Gandhi Irwin Road,
Egmore, Chennai-8. .. Petitioner

Vs.

1.State of Tamil Nadu,
rep by the Secretary to Government,
Home Department,
Fort St. George, Chennai-9.

2.The State Transport Authority,
Chennai-5. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the respondents 1 and 2 to implement the scheme in 'The Motor Vehicles (All India Permit for Tourist Transport Operators) Rules, 1993 in Tamil Nadu forthwith.

For Petitioner : Mr.T.Ananthasekar
for Mr.S.Rajasekar

For Respondents : Ms.Vasudha Thiagarajan, AGP
for RR1 and 2

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ORDER

Mr.T.Ananthasekar, learned counsel representing Mr.S.Rajasekar learned counsel appearing for the writ petitioner is present in Court. Ms.Vasudha Thiagarajan, learned Additional Government Pleader appears for both respondents.

2 It is the case of the writ petitioner that he owns a transport vehicle bearing Registration No.KA-02/C 4777 and that registration is valid upto 10.8.2003, it is the case of the petitioner that he has been granted permit by the State Transport Authority, Karnataka in respect of his aforesaid vehicle for operating the same in the States of Karnataka, Tamil Nadu and Maharashtra. It is the further case of the writ petitioner that he had paid tax for his home State and had also remitted for the composite State before the authorities of the primary State in respect of the aforesaid vehicle on 29.09.2000 for the period from 1.10.2000 to 31.12.2000

3 It is the specific case of the writ petitioner that though he holds a valid permit from the competent authority in respect of his vehicle, he is unable to operate his vehicle in Tamil Nadu as the transport authorities in Tamil Nadu are demanding tax afresh. There is a specific reference in the writ petition that when he made an enquiry in the border check post of Tamil Nadu at Zuzuwadi and in the Regional Transport Office at Dharmapuri, he was given to understand that subordinate staff of the transport department in Tamil Nadu are not aware of the scheme under Motor Vehicle (All India Permit for Tourist Transport Operators) Rules, 1993, which had been formulated by the Central Government. It is the further case of the writ petitioner that the State Transport Authorities in Tamil Nadu have not issued suitable instructions in this behalf to the subordinate staff.

4 Be that as it may, learned Additional Government Pleader points out that the registration of the vehicle itself was valid only up 10.08.2003. The authorization was valid upto 10.8.2001 and the tax had been paid on 29.9.2000 and even according to the writ petitioner, it was only for the period from 1.10.2000 to 31.12.2000. Therefore, nothing survives at this distant point of time. It is also submitted by the learned Additional Government Pleader that there is nothing on record to show that the State Government authorities demanded tax as no order to this effect has been placed before the Court. In this regard, it is to be noted that it is not the case of the writ petitioner that the writ petitioner issued any notice to the Tamil Nadu State Transport authorities.

5 Most importantly, the prayer in the writ petition is extremely sweeping. The prayer is to the effect that court should mandamus the respondents before me, i.e., the State of Tamil Nadu, represented by the Secretary to Government, Home Department and the State Transport Authority to implement the scheme in the Motor Vehicles (All India Permit for Tourist Transport Operators) Rules, 1993 in Tamil Nadu forthwith. There is no mention about any specific provision of the rule.

6 It is brought to my notice that the aforesaid rules have been made by the Central Government in exercise of rule making powers under Section 88 of the Motor Vehicles Act, 1988 (59 of 1988).

7 When there is a validly enacted subordinate legislation, there can be no two opinions about the position that such subordinate legislation / rules are binding as long as they are operating. Therefore, the prayer by its very nature is one that seeks to state the obvious. More over, as set out supra, the registration of the vehicle itself was valid only upto 10.8.2003. The authorization was valid only upto 10.8.2001 and the tax paid was for the quarterly period from 1.10.2000 to 31.12.2000 (paid on 29.9.2000).

8 Owing to all that have been stated supra, I am of the view that the writ petition is bereft of particulars and is bereft of merits, particularly in the light of the prayer as it is very sweeping and acceding to the prayer would merely tantamount to stating the obvious. This writ petition is disposed of recording the submission of the learned Additional Government Pleader that the aforesaid rules, i.e., Motor Vehicles (All India Permit for Tourist Transport Operators) Rules, 1993 as in force (as amended) is applicable in the State of Tamil Nadu. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vvk

To

1.The Secretary to Government,
State of Tamil Nadu,
Home Department,
Fort St. George, Chennai-9.

2.The State Transport Authority,
Chennai-5.

+1 cc to Mr.S.Rajasekar Advocate sr 85037
+1 cc to Govt Pleader sr 85676

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