

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.NO.16118 OF 2014

AND M.P.NO.1 OF 2014

R.Kalamani

.. Petitioner

Vs.

1.The Regional Transport Authority
Tirupur.

2.The Secretary
The Regional Transport Authority - cum
The Regional Transport Officer
Tirupur (North)
Tirupur.

3.The State Transport Appellate Tribunal
Chennai.

4.The Transport Commissioner
Chepauk,
Chennai - 600 005.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, to direct the first and second respondents to receive the petitioner's application dated 18.11.2013 for renewal of permit which was refused by the second respondent vide memo in N.Dis.No.59931/A3/2013 in respect of mini bus permit on the route Samundipuram to Thirumuruganpoondi in respect of vehicle bearing Registration No.TN-39-K-7603 and to consider the same and to pass orders in accordance with law.

For Petitioner : Mr.S.Govindraman

For Respondents : Mr.Akhil Akbar Ali
Government Advocate

O R D E R

1. The petitioner via the captioned writ petition seeks a direction from this Court to the effect that the respondent nos.1 and 2 should receive the petitioner's application dated 18.11.2013 for renewal of permit.

2. It may be seen that the petitioner's Late husband Mr.M.Ramakrishnan had been issued a Mini Bus permit to ply the vehicle bearing Registration No.TN39-K-7603, on the route, spanning between Samundipuram to Thirumuruganpoondi.

2.1. The averments in the affidavit accompanying the writ petition show that the permit of the petitioner's husband was cancelled, by the first respondent, in the year 2001, based on a complaint raised by a private stage carrier. According to the petitioner, an objection was raised that the permit holder had exceeded the sector over which, he could ply his vehicle by about 4 kms.

2.2. Against the cancellation, the petitioner's husband had preferred an appeal to the State Transport Appellate Tribunal (in short "Tribunal"). This appeal was numbered as Appeal No.584 of 2001. The petitioner claims that the Tribunal allowed the appeal and hence, the petitioner's husband was directed to file a modified proposal.

3. It appears that the first respondent rejected the modified proposal submitted by the petitioner's husband. Furthermore, the application made by the petitioner's husband for renewal of permit was also rejected. Consequently, two appeals were filed with the Tribunal, which were numbered as Appeal No.1273 of 2003 and Appeal No.1 of 2004. Both appeals were allowed by the Tribunal vide order dated 10.09.2008.

4. The petitioner avers that in the interregnum, her husband passed away on 30.08.2008.

4.1. Consequent thereto, the petitioner, apparently, made a representation dated 27.09.2008 to the second respondent for transfer of permit to her name, along with an application for grant of temporary permit.

5. It appears that there was no movement in the matter with regard to the request made by the petitioner. However, on 23.02.2011, the Government vide G.O.Ms.No.136, Home (Transport III) Department modified and approved the existing area scheme. It is the petitioner's case that the said Government Order saved existing permits of Mini Buses, issued under 1997-1999 Schemes.

6. It is in these circumstances that the petitioner, apparently, moved this Court by a writ petition under Article 226 of the Constitution.

6.1. That petition was numbered as W.P.No.22445 of

2012. The relief sought for in the said writ petition was for issuance of a direction to the respondent nos.1 and 2 to consider her representation dated 27.09.2008.

6.2. This Court vide order dated 17.08.2012 directed theing second respondent to dispose of the petitioner's representation, dated 27.09.2008, within a period of four weeks, after giving an opportunity of hearing in the matter. Furthermore, the petitioner was also directed to furnish a copy of the representation, dated 27.09.2008, to the second respondent herein, that is, the Secretary, Regional Transport Authority cum Regional Transport Officer.

6.3. The petitioner avers that the order dated 17.08.2012 was served on the second respondent, by her counsel, under the cover of letter, dated 13.09.2012.

7. It is the petitioner's case that no action has been taken by first and second respondent to date. As a matter of fact, the petitioner asserts that a reminder was sent on 11.07.2013, for the very same purpose.

7.1 Notably, the net effect of the aforesaid delay has been that the subsequent period of renewal of five years also lapsed.

7.2. It is in these circumstances, that the petitioner, appears to have, preferred an application dated 18.11.2013, for renewal of permit.

7.3. This application, however, has been returned by the second respondent.

8. To be noted, notice in this petition was issued on 23.06.2014. However, to date, no counter affidavit has been filed. Consequently, the assertions made by the petitioner have gone untraversed.

9. Mr.Akhil Akbar Ali, who appears for the respondents says that the petitioner's application for renewal of permit can be considered afresh, in consonance with G.O.Ms.No.136, read with the extant provisions of law.

10. Having perused the records and heard the learned counsels for the parties, it is clear that the second respondent has derelicted his duty in not complying with the directions passed by this Court via order, dated 17.08.2012. This infraction, has resulted in the matter attaining, avoidable, complexity, at least, from the point of view of the petitioner.

11. Therefore, having regard to the stand taken by Mr.Akhil Akbar Ali, a direction is issued to the respondents to consider, afresh, in accordance with law, the application of the petitioner, dated 18.11.2013, without being burdened, by outcome of the memo dated 28.11.2013.

12. Needless to say that the aforementioned exercise will be done with due expedition, though, not later than eight weeks from the date of receipt of copy of the order. The respondents, will, however, prior to proceeding to pass a fresh order in the matter, afford an opportunity of personal hearing to the petitioner.

13. The writ petition is, accordingly, disposed of. Consequently, connected miscellaneous petition is closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

TK

To

- 1.The Regional Transport Authority
Tirupur.
- 2.The Secretary
The Regional Transport Authority - cum
The Regional Transport Officer
Tirupur (North)
Tirupur.
- 3.The State Transport Appellate Tribunal
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- 4.The Transport Commissioner
Chepauk,
Chennai - 600 005.

+1cc to Mr.S.Govindraman Vide SR.No.2985
+1cc to the Government Pleader Vide SR.No.3677

SKV(CO)
GN(30/01/2017)

W.P.NO.16118 OF 2014

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