

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 13-12-2017

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.Nos.3106 of 2012 & 3143 of 2012
and M.P.No.1 of 2012

Erode Maavata Chidrunthu

Urimaiyalargal Padukappu Sangam,
244, Chinnu Complex (near RTO office),
Karur Road,
Erode-638 002.

.. Petitioner in
W.P.3106 of 2011

Erode Maavata Chidrunthu

Urimaiyalargal Padukappu Sangam,
51, E.V.N.Road,
Rajaganapathy Chambers,
Near Golden House Hotel,
Erode-638 001,
rep. by its Joint Secretary

.. Petitioner in
W.P.3143 of 2012

versus

1. The Regional Transport Authority,
Erode.

2. The Commissioner,
Corporation of Erode,
Erode.

.. Respondents

Prayer: These Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to forbear the respondents herein from directing the members of the respective petitioners associations to stop their mini buses in the newly constructed bus stand for mini buses instead of existing mini bus stand.

For Petitioners : Mr.S.Radhaagopalan

For Respondents : Mr.S.Gunasekaran, AGP for R1
Mr.P.Srinivas for R2

COMMON ORDER

Since the issue raised in both the writ petitions is common, they are taken together and being disposed of by this common order.

2. It is suffice to mention the brief facts pertaining to the writ petition in W.P.No.3106 of 2011 and it is to be noted that the outcome of this writ petition, will hold good to the other writ petition, i.e. W.P.No.3143 of 2012 also.

2.1 The petitioner is an association registered under the Tamil Nadu Societies Registration Act, 1975 and its members are minibus operators and all of them have been granted permit under the Approved Modified Area Scheme. The mini bus operators, who are the members of the petitioner association have been granted permits to go to Erode bus stand which is one of the termini for their buses.

2.2 According to the petitioners, there was a proposal for shifting of the mini bus stand from the existing place. Shifting of a new bus stand, according to the petitioner, was invalid and unsustainable since no prior notice was given to the mini bus operators nor their views were obtained before relocating the bus stand for mini buses. According to the petitioners, under Rule 245 of the Tamil Nadu Motor Vehicles Rules, a procedure is provided for locating a new bus stand for the bus operators, but such procedure was not followed in the present case and therefore, the action taken to relocate the bus stand for mini buses, per se is contrary to the Rules, is liable to be interfered with.

2.3 The petitioner has raised number of grounds in the writ petition in regard to violation of principles of natural justice and also violation of procedure as contemplated under Rule 245 of the Rules. According to the petitioner, the present location is not convenient to the public and if terminus for mini buses is separated from main bus stand, it will cause much inconvenience to the passengers who would be otherwise using main bus stand for their onward journey. In the said circumstances, the present action by the authorities concerned, was against the public interest besides other violation pointed out.

3. Upon notice, Mr.S.Gunasekaran, learned Addl.Govt.Pleader entered appearance for respondent No.1 and Mr.P.Snivasan, learned counsel entered appearance for respondent No.2.

4. As per the counter affidavit, it is submitted that due to heavy congestion in main bus stand, a new bus stand was located right along with the main bus stand and the same was developed along with allied facilities of two wheeler parking shed for public convenient. According to the petitioner, the mini bus stand is an integral part of the main bus stand and is not far far from the bus stand and there was no inconvenience to the public for location of the mini bus stand along wide of the main bus stand. It is categorically averred in the counter affidavit that mini bus stand is in fact, located inside the main bus stand only. According to the respondents, the petitioner is only attempting to gain in terms of more revenue by bringing their buses into the main bus stand along side the long distance buses which would cause much inconvenient to the travelling public.

5. As regards non-issue of notice to the petitioner association, it is averred in the counter affidavit that the bus stand was constructed after calling for public tender by publication in news papers and the same was constructed in pursuance of a Council meeting which was held on 20.12.2007. The said fact was published in the local dailies and also a tender was called and the same was published in daily news papers besides the tender bulletin. Therefore, the petitioner was all along aware of the proposal and the bus stand. After completion of the construction of the bus stand, it was also inaugurated on 29.11.2011. In spite of knowing the entire line of action by the respondents in regard to construction of bus stand for mini buses, the petitioner association had leisurely with rested interest, had approached this Court, seeking to challenge the action of the respondents. After inauguration of the bus stand, the same has been put to use in public interest and there was no complaint from the public against such segregation of the mini bus stand from the main bus stand. That being the case, the present writ petition is filed under the pretext of advancing public interest, but in effect, it was a clear attempt to promote private interest and therefore, the writ petition lacks bona fides and the same is liable to be dismissed.

6. Mr. Radhagopalan, learned counsel appearing for the writ petitioner reiterated the averments contained in the affidavits filed in support of the writ petition. The learned counsel at the out set, would draw the attention of this Court that the relocation of mini bus stand without prior notice to the petitioner association, is not a valid exercise of power and when any adverse order being issued against the mini bus operators, must be preceded by valid notice and enquiry.

7. Learned counsel would rely upon a decision of this Court in support of her contention, reported in AIR 1951 Mad 419 "(T.E. Ebrahim Saheb vs The Regional Transport Authority)". In the said decision, the Division Bench of this Court has held that the transport authority was mandated to give notice to the parties affected in regard to relocation of bus stand under the then existing rules and in the absence of notice, such action was against the principles of natural justice. The learned counsel would further draw the attention of this Court to Rule 245 of the Tamil Nadu Motor Vehicles Rules, 1988. This Court's attention was drawn particularly to Sub Rule (f) of Rule 245, which reads as follows:

The Regional Transport Authority may give an opportunity to the permit holders of the existing stage carriage services in the area while approving a public stand or at the time of its approval.

According to the learned counsel for the petitioner, the above said procedure was not followed and no notice was given.

The learned Addl. Government Pleader appearing for the respondents would reiterate averments contained in the counter affidavit.

This Court has given its anxious consideration to the rival submissions and also perused the documents and pleadings placed on record.

At the outset, this Court would conclude that the entire premise of the arguments put forth by the learned counsel for the petitioner is misconceived and incorrect for the reason that there was no shifting of the bus stand to new place. It is the averment contained in the affidavit conceded that new bus stand was very much integral part of the old bus stand and it was only a segregation of terminating of vehicles in respect of mini buses and long distance main buses. This averment has not been disputed by the petitioner. That being the case, this Court does not appreciate as to how and on what basis, the rights of the petitioner association have been prejudiced or violated. When new bus stand is very much located along side of main bus stand only with a view to decongest the main bus stand in public interest, the same cannot be faulted with by the petitioner association.

The citation relied upon by the petitioner cannot be applied to the factual matrix of the present case since admittedly there was no shift of bus stand as such and it was only a segregation which took place within the main bus stand.

The same reason can be applied to the arguments put forth by the learned counsel appearing for the petitioner as to the applicability of Sub Rule (f) of Rule 245 of the Tamil Nadu Motor Vehicles Rules, 1989. As far as the present case on hand is concerned, the said Rule cannot even be remotely applied for the purpose of issuing notice to the petitioner association. Even assuming such notice is required under law, as rightly averred in the counter affidavit, the entire line of action before construction of new bus stand was put on public domain and the issue was published in the local dailies all along and the construction of the new bus stand was inaugurated with full knowledge of the public on 21.9.2007. Such being the case, the present attempt by the petitioner association to challenge the action of the respondents is clearly intended to promote interest which in fact, against the public interest and such attempt cannot be allowed to reach its logical end. As rightly contended by the learned counsel for the respondents that under the pretext of promoting public interest, the petitioner attempted to advance their interest at the cost of the public cause. The entire writ petition is intended to serve personal interest of the petitioner. Therefore, the Writ Petition lacks merits and the same is liable to be dismissed.

As regards the other writ petition, i.e. W.P.No.3143 of 2012, the facts and the prayer sought for therein, are almost identical and as already stated supra, the outcome of the writ petition in W.P.No.3106 of 2012, will hold good in respect of the present writ petition, this Court is of the view that this Writ Petition is also liable to be dismissed as devoid of merits.

Accordingly, the Writ Petitions are dismissed. No costs. Consequently, connected MP is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Transport Authority,
Erode.

2. The Commissioner,
Corporation of Erode,
Erode.

+1 cc to Mr.P.Srinivas Advocate sr 89606
+1 cc to Mr.S.Radhagopalan Advocate sr 89143
+1 cc to Govt Pleader sr 89427

common order in
W.P.Nos.3106 & 3143 of 2012

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