

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 02.12.2016

Verdict on 24.01.2017

CORAM

THE HON'BLE MR. JUSTICE M.S. RAMESH

W.P.No.3534 of 2013

M/s.Subhari Trasport,  
rep by its Proprietrix,  
Mrs. Lalithamani

...Petitioner

Vs.

1. The Managing Director,  
T.N.S.T.C.  
Mettupalayam Road,  
Coimbatore.

2. Secretary to Government,  
Fort St. George,  
Chennai - 600 009.

3. The Regional Transport Officer,  
Tiruppur.

4. The Regional Transport Officer,  
Erode.

5. The District Collector,  
Erode District,  
Erode-11.

6. The District Collector,  
Tiruppur.

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the first respondent from plying any bus on the Tiruppur Erode route without attending the timing meeting.

For Petitioner : Mr.S.Radha Gopalan

For Respondents : Mr.V.R.Kanmalanathan for R1  
Mr.R.Govindasamy  
Special Government Pleader for R2 to R6

## O R D E R

The petitioner, who is a privately owned transport company plying buses between Tiruppur and Erode via Uthukuli and Perundurai, has sought for a direction to forbear the first respondent from plying any buses on the Tiruppur-Erode route without attending the timing meeting.

2. The grievances of the petitioner is that the first respondent transport corporation has been plying their buses on the Tiruppur-Erode route without adhering to the timing meeting owing to which, the Driver/Conductor of the said transport corporation buses block the petitioner's bus and there is consequent altercation between them and the petitioner's staff, leading to undue incidents. According to learned counsel for the petitioner the buses of the transport corporation are plying without adhering to the timing meeting and causing loss to his business.

3. The learned counsel for the first respondent, on the other hand, would submit that the Government had permitted the Managing Director of the State Transport Undertakings to directly apply to the respective regional transport authority with their present pattern of operation and timings. Accordingly, the first respondent corporation had submitted an application to the regional transport authority, attaching the present pattern and for regulation of their respective vehicles. In so far as the route from Tiruppur to Erode is concerned, the Tamil Nadu State Transport Undertaking are plying buses under the permit issued by the Regional Authority on the basis of tentative timings, since permits have been issued under Section 103 of the Motor Vehicle Act for their buses. The permits in the aforesaid route are issued to the Tamil Nadu State Transport Corporation Limited on the basis of tentative timings as per proviso to Rule 48 of the Tamil Nadu Motor Vehicles Act and the same are valid as on date. Since permits issued to these buses are temporary permits, no timing conference was conducted while issuing the permits under Section 103 of the Motor Vehicles Act.

4. I have given careful consideration to the submissions made by the respective counsels.

5. Admittedly, the petitioner's bus as well as the buses of the State Transport Corporation are plying in the same

route namely Tiruppur to Erode. The State Transport Corporation buses are also admittedly plying under temporary permits. It is seen from the records submitted by the respondents that atleast two buses among the five, in Tiruppur and Erode route are plying with temporary permits issued as early as in 2002-2003.

6. The learned counsel for the respondents has admitted that since the permits are temporary in nature no timing conference was conducted and therefore no fixation of timings was arrived at. The admission of the respondents that there was no timings conference in view of the temporary permits would only lead this Court to believe the petitioner's statement about the frequent altercation between the corporation buses and the petitioner's buses possible. In this context, the submission of the Standing Counsel for the Corporation, that if at all there is violation of the timings fixed, the Regional Transport Authority will take action on the basis of the complaints given, does not sound appealing.

7. As observed above, I do not appreciate the conduct of the corporation of having not taken steps to issue regular permits for so many years, particularly when the petitioner has been adhering to the timings fixed for them. Taking advantage of the temporary permits issued, the respondent has now taken a stand that no timings have been fixed for them, in view of their nature of the temporary permits. A temporary permit is usually meant for conveyance of passengers on special occasion or for a seasonal business for temporary needs or during the pendency of any application on new permits. No doubt Rule 248 of the Motor Vehicles Act provided for fixation of tentative timings for stage carriages of the Tamil Nadu State Transport Undertakings. The respondents cannot keep issuing temporary permits for years together without participating in any timings conference by taking advantage of the proviso to Section 103 of the Motor Vehicles Act or the rules made under.

8. As pointed out by the learned counsel for the petitioner, in view of the non fixation of fixed time for the State Transport Undertaking, the petitioner's business is under peril. The Regional Transport Authority having issued permits to the petitioner should also ensure that the permit is fully utilized without any interference of other buses belonging to the Transport Corporation. Since the petitioner has come up with clear case that there are frequent altercations between the staff of the petitioner's bus and the State Transport Undertaking buses, it would be appropriate that both should participate in timing conference and sort out their indifference. This Court has also taken note out of the fact that the writ petition is filed in the year 2013 and the submission of the learned counsel for the petitioner that as on

date there are frequent problems in the said route and that are still persisting in the said route.

9. The petitioner has sought for a direction to the first respondent to forbear them from plying any of their buses on Trippur-Erode route without attending the timing meeting. No fixed timing has been made for the corporation buses in view of the nature of the temporary permits, and hence it cannot be said to be illegal and consequently the prayer sought for in this writ petition cannot be considered. At the same time, I do not appreciate the respondents' conduct in plying their buses with temporary permits from 2002 onwards, which is the cause for the frequent altercation in the route. Hence it would be appropriate that a direction may be issued to conduct a fresh timing conference in order to resolve the long dispute between them.

10. Accordingly, the writ petition is disposed of with a direction to the fifth respondent to conduct a timing conference by giving due opportunity to the petitioner and the first respondent in respect of the route between Tiruppur and Erode via Uthukuli and Perundurai. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this Order. No costs.

sd/  
Assistant Registrar(CCC)

/true copy/

Sub Assistant Registrar

rts

To

1. The Managing Director,  
T.N.S.T.C.  
Mettupalayam Road,  
Coimbatore.
2. Secretary to Government,  
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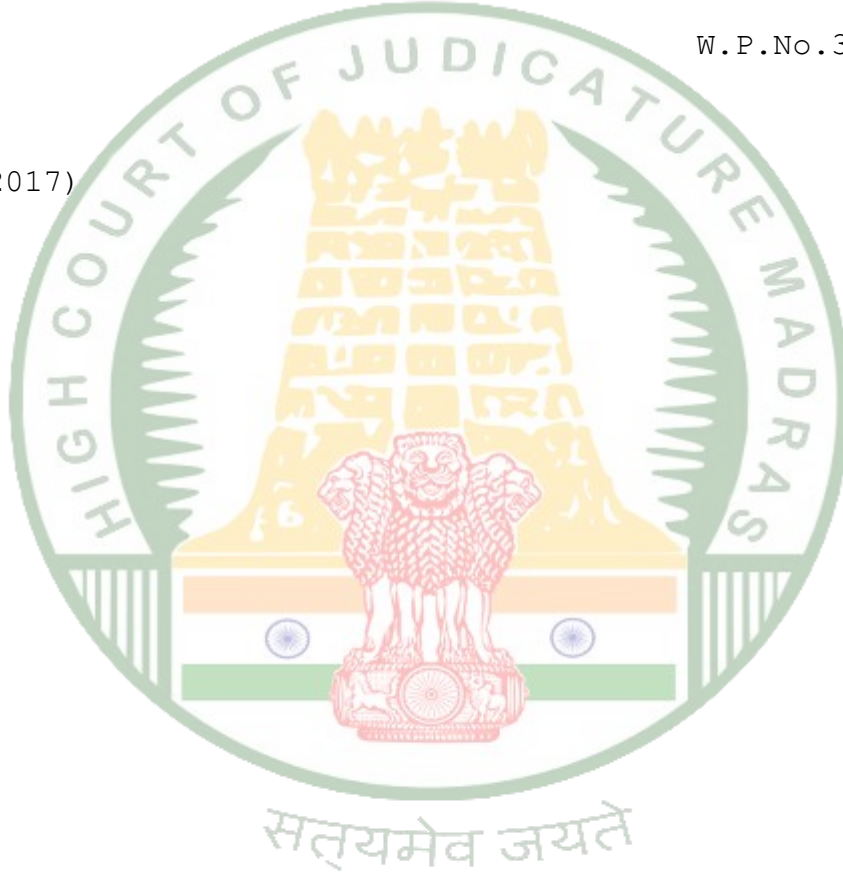
5. The District Collector,  
Erode District,  
Erode-11.

6. The District Collector,  
Tiruppur.

+1cc to Mr.Kamalanathan Advocate SR.No.4590  
+1cc to Mrs.Radha Gopalan Advocate SR.No.4975

order in  
W.P.No.3534 of 2013

MG (CO)  
GN (06/02/2017)



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