

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.07.2017

Coram

The Hon'ble Mr. Justice ABDUL QUDDHOSE

W.P.No.17379 of 2004

M.O.Hassan Kuthoos Maricar Ltd.,
Rep. by its Director H.U. Saleem,
No.1/1, Thomas Arul Street,
Karaikal 609 602. ... Petitioner

Vs

- 1.The State Transport Authority,
Union Territory of Pondicherry,
Pondicherry.
- 2.The State Transport Appellate Tribunal,
Pondicherry. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the second respondent made in M.V.AP.No.21/2002, dated 22.1.2004 in confirming the order of the first respondent made in No.2905/TD-TP1/Permit/202, dated 9.5.2002 and quash the same and direct the first respondent to consider and pass orders on the application of the petitioner for the grant of interstate permit in respect of the route Thirunallar to Madras (via) Karaikal, Porayar, Sirkali, Chidambaram and Cuddalore Pondicherry Marakkanam, Mahabalipuram Pudupattinam and Kovalam on merits and in accordance with law.

For Petitioner .. Mr.M.Palani

For Respondents .. Mr.B.Nambi Selvam,
Addl. Govt. Pleader (Pondicherry)

ORDER

The writ petition has been filed to call for the records of the second respondent made in M.V. AP.No.21/2002, dated 22.1.2004 in confirming the order of the first respondent made in No.2905/TD-TP1/Permit/202, dated 9.5.2022, quash the same and direct the first respondent to consider and pass orders on the

application of the petitioner for the grant of interstate permit in respect of the route Thirunallar to Pondicherry (via) Karaikal, Porayar, Sirkali, Chidambaram and Cuddalore on merits and in accordance with law.

2.The brief facts of the case are as follows:

The petitioner applied for an interstate permit to ply on the interstate route from Thirunallar to Pondicherry (via) Kariakal, Porayur, Sirkali, Chidambaram and Cuddalore. The said application was rejected by the first respondent by proceedings dated 09.05.2002. Against which, the petitioner preferred Appeal No.21 of 2002 on the file of the second respondent and the same was dismissed on 22.01.2004. Challenging the said order, the petitioner filed the present writ petition.

3.When the matter is taken up for hearing, the learned counsel for the petitioner fairly submitted that the issue involved in this writ petition is covered by a Constitutional Bench judgment of the Supreme Court in G.T.VENKATASAMY REDDY V. STATE TRANSPORT AUTHORITY AND OTHERS (2016 (8) SCC 402) wherein, the Apex Court held that variation of permit after publication of approved scheme is impermissible. Paragraph 50 (g) of the Constitution Bench judgment, which is the relevant operative portion of the judgment is extracted hereunder:

"By virtue of the above, either a grant of a new permit or the variation of an existing permit of private operator cannot be ordered in respect of an area or route covered by an Approved Scheme."

4.The prayer sought in the writ petition is similar to the one stated above. Hence, the Constitution Bench judgment of the Supreme Court cited supra is squarely applicable to the instant writ petition.

5. In the light of the decision of the Supreme Court referred supra, the relief sought for in the writ petition cannot be granted by this Court. Hence, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS IV)

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Sub Assistant Registrar

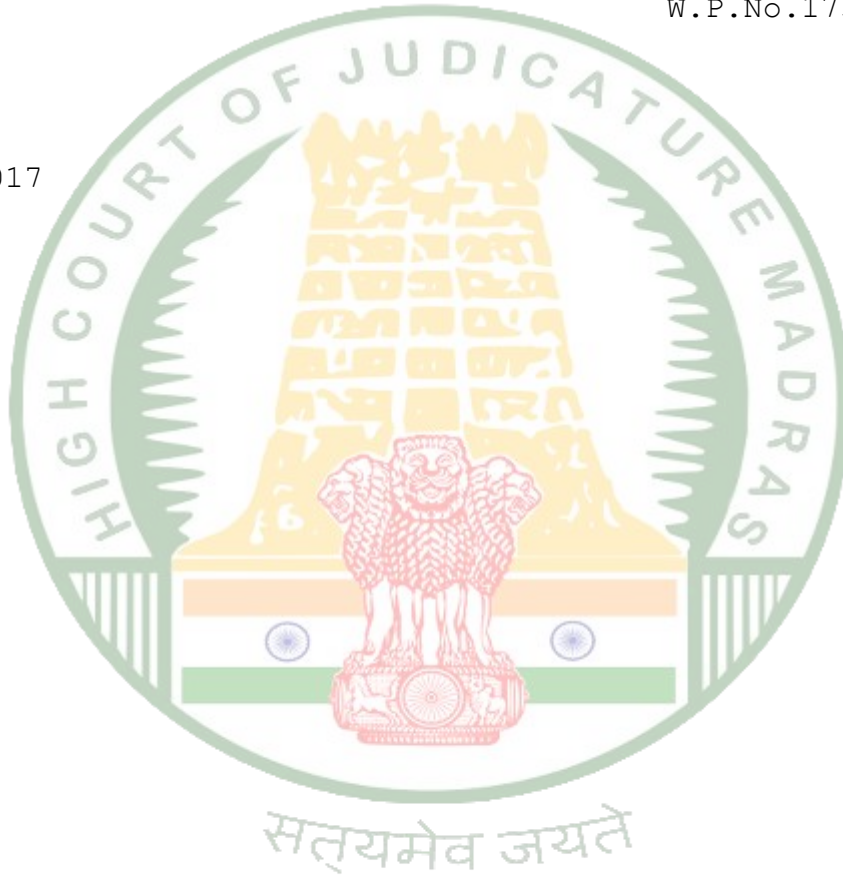
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To

- 1.The State Transport Authority,
Union Territory of Pondicherry,
Pondicherry.
- 2.The State Transport Appellate Tribunal,
Pondicherry.

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