



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2017

CORAM:

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No. 20625 of 2016

and

W.M.P. (MD) .No. 14741 of 2016

Selvan.Minor.M.Athipathi
(Represented by Father & Guardian)
M.Maruthupandian,

.. Petitioner

Vs.

1. The District Collector Cum
Regional Transport Authority.
Dindigul District, Dindigul.
2. The Regional Transport Officer,
Office of the Regional Transport Office,
Dindigul, Dindigul District.
3. The Regional Transport Officer,
Office of the Regional Transport Office,
Madurai (North), Madurai.
4. G.Manavalan,
S/o.Govindarajan,
The Manager,
Sri Velmurugan Roadlines,
2, West Ponnagaram, 7th Street,
Madurai 625 016.

.. Respondents

... 4th Respondent

(4th respondent is impleaded as party respondent vide order of this Court dated 20.04.2017, passed in WMP(MD).No.16145 of 2016 in WP(MD).No.20625 of 2016)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the First Respondent to permit the Petitioner stage carriage bearing Registration No. TN-59-BW-4145 on the diverted route from Madurai to Dindigul (Via), Samayanallur, Nagari, Vadipatti, Pallapatti Cross to reach Dindigul instead of Sholavandan, Karattupatti till the construction fly over bridge is completed at Sholavandan Railway Level Crossing.



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For Petitioner : Mr.A.C.Asaithambi
For Respondent : Mr.T.R.Jenarthanan
Additional Government Pleader
For R1 to R3
: Mr.R.Murugaboopathy
for proposed impleading party
R4.

O R D E R

This Writ petition is filed for issuance of a Writ of Mandamus directing the First Respondent to permit the Petitioner stage carriage bearing Registration No. TN-59-BW-4145 on the diverted route from Madurai to Dindigul (Via), Samayanallur, Nagari, Vadipatti, Pallapatti Cross, to reach Dindigul, instead of Sholavandan, Karattupatti, till the construction of fly over bridge is completed at Sholavandan Railway Level Crossing.

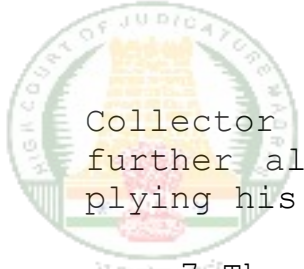
2. Brief facts that are necessary for the purpose of disposing the above writ petition are as follows:

3.The petitioner is operating the Stage Carriage bearing Registration No.TN-59-BW-4145 on the route from Madurai to Dindigul. The petitioner on account of construction of a fly over bridge at Sholavandan Railway Level Crossing, wanted permission for diversion through another route. Since representation was not considered, he has approached this Court with the above prayer.

4. During pendency of the Writ Petition and after an interim order was granted, the Regional Transport Authority, namely, the first respondent herein passed an order on 29.12.2016, considering the petitioner's request for diversion due to construction of a fly over at Sholavandan Railway Level Crossing. This order dated 29.12.2016, is on the request that was made before the authorities before filing the above writ petition. Though the petitioner is aggrieved by the proceedings of the District Collector dated 29.12.2016, the petitioner has already filed a statutory appeal as against the order of the first respondent, dated 29.12.2016.

5. It is, in these circumstances, M.G.Manavalan filed the petition to implead himself as fourth respondent in this Writ Petition. The proposed party is the Manager of one Sri Velmurugan Roadlines. His grievance in the Writ petition is that the petitioner, is now, operating in the diverted route which is impermissible in law. The petitioner has already suffered an order which was passed on merits by the District Collector.

6. Having filed the statutory appeal as against the District



Collector order, he cannot pursue this Writ petition. It is further alleged by the fourth respondent that the petitioner is plying his stage carriage affecting the rights of others.

7. The learned Counsel for the fourth respondent submitted that the petitioner cannot maintain the present writ petition after the order was passed by the District Collector on 29.12.2016. According to him, the petitioner who has filed statutory appeal as against the order directing the nature of diversion, he cannot allow to keep the writ petition pending only on the ground that the interim order has been granted by this Court.

8. He further submitted that by virtue of the interim order granted by this Court, the petitioner is operating a stage carriage and it is in violation of the provisions of law and the order of the first respondent, dated 29.12.2016.

9. This Court is not inclined to go into the factual dispute as regards the merits of the case to be put forth by the individual concerned.

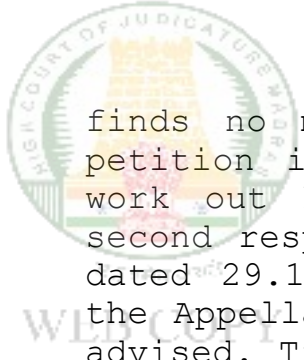
10. The petitioner, though has obtained an interim order of this Court, has suffered another order dated 29.12.2016. Despite the fact that, the petitioner has preferred an appeal and the appeal is pending before the Statutory Appellate Authority, it appears that the petitioner wants to prolong this litigation. In this Writ Petition, the interim order is continuing today. The prayer in the writ petition is for directing the respondents to permit the petitioner's stage carriage to be operated on a diverted route.

11. This Court would have directed the respondents to consider this application on merits and in accordance with law. The interim order granted by this Court is not pursuant to adjudication of the dispute on merits.

12. It is, at the stage, the petitioner cannot be permitted or allowed to operate the stage carriage on the diverted route, merely on the strength of the interim order granted by this Court, which was not granted after full-fledged enquiry. As a matter of fact, the petitioner ought to have brought to the notice of this Court the order passed by the District Collector on 29.12.2016.

13. Having filed an appeal, the substantial right of the petitioner can be protected only by the Appellate Authority who is seized of the appeal as against the order of the District Collector, dated 29.12.2016. The present Writ petition cannot be allowed to cause prejudice to the interest of the persons, who are aggrieved by the order of the District Collector.

14. Having regard to the facts narrated above, this Court



finds no merit in this Writ Petition and therefore, this Writ petition is dismissed. However, the petitioner is at liberty to work out his remedy in the appeal that is pending before the second respondent as against the order of the District Collector, dated 29.12.2016. It is also open to the petitioner to approach the Appellate Authority for appropriate interim order if he is so advised. Till such time, the appeal is disposed of, the petitioner shall operate his stage carriage in the route specified by the District Collector by his proceedings dated 29.12.2016. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector Cum
Regional Transport Authority.
Dindigul District, Dindigul.
2. The Regional Transport Officer,
Office of the Regional Transport Office,
Dindigul, Dindigul District.
3. The Regional Transport Officer,
Office of the Regional Transport Office,
Madurai (North), Madurai.

+ 1 CC TO Mr.A.C.ASAITHAMBI, ADVOCATE IN SR No. 53620
+ 1 CC TO Mr.N.THAMIMUL ANSARI, ADVOCATE IN SR No. 53684

MSA/MYR
TE/KP/SAR-IV : 03/05/2017 : 4P/6C

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W.M.P.(MD).No.14741 of 2016
20.04.2017