

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.17515 OF 2009

ORDER:

The action of the respondents, in imposing on the petitioner penalty of Rs.93,000/- for non-supply of Bus No.AP-36-X-4452 for operation on Karimnagar-Vedurugatta route by proceedings dated 16.06.2009, is questioned in this Writ Petition as being arbitrary and illegal.

By the impugned order dated 16.06.2009, the petitioner was informed that the Road Transport Corporation had accorded approval for re-induction of its assigned route, for the balance period of the tenure agreement subject to payment of penalty of Rs.93,000/- in six fortnightly instalments.

Penalty was imposed in terms of Clause 3 (6) of the agreement which stipulates that in case the owner, on completion of the initial spell of the agreement period out of the total tenure, fails to report for certification of fitness of the vehicle by the Vehicle Inspection Committee, and for renewal of subsequent year of agreement period, acceptance of the vehicle by the Corporation would be subject to payment of penalty by the owner at Rs.500/- per day which would be deducted from the amounts due to him. In terms of the said Clause and, since the petitioner did not make available the bus, penalty of Rs.93,000/- was imposed.

The petitioner invoked the jurisdiction of this Court. The interim order sought by the petitioner was to direct the respondent to induct his bus without insisting on payment of penalty. By order in WP.MP.No.22975 of 2009 dated

24.08.2009, this Court granted interim direction as prayed for on condition that the petitioner paid Rs.50,000/- in five fortnightly instalments.

Sri V.Jithender Rao, learned counsel for the petitioner, expresses ignorance of whether or not the petitioner had complied with the interim order passed by this Court. He would draw my attention to the letter addressed by the petitioner to the Traffic Manager on 20.04.2009 requesting that the heavy penalty of Rs.71,500/-, imposed on the petitioner, either be waived or reduced.

In case the petitioner had complied with the interim order, he would have been permitted to run the bus for the RTC for the past nearly eight years. If, on the other hand, he did not comply with the interim order, the RTC would not have permitted him to operate the bus. Suffice it, therefore, to dispose of the Writ Petition directing the respondents, in case the petitioner had complied with the interim order and had paid Rs.50,000/- to the respondent-RTC, to consider the petitioner's application for waiver of the remaining penalty of Rs.43,000/- in accordance with law, and pass orders thereupon within a period of two months from the date of receipt of a copy of this order. No coercive steps shall be taken by the respondents to recover the said amount till orders are passed on the petitioner's representation within the aforesaid period. It is made clear that, after such an order is passed, it is open to the respondents to take further action in accordance with law. In case the petitioner has not complied with the aforementioned interim

order, it is open to the respondents to proceed and recover the entire penalty of Rs.93,000/- in accordance with law.

The Writ Petition stands disposed of accordingly. There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

1st September 2017
RRB

