

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Petition No.4667 of 2006

Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The proceedings, under challenge in this writ petition, is the demand notice dated 9.1.2006 issued by the Deputy Transport Commissioner, Nellore.

By the impugned proceedings, the petitioner was called upon to pay the differential tax of Rs.77,500/- on the ground that the vehicle was plying in an unauthorized route without complying with the permit conditions and, in terms of Section 66(i) of the Motor Vehicles Act, 1988 (for short 'the Act'), a vehicle plying without a valid permit attracts higher rate of tax. On the ground that the seating capacity of the vehicle was 32, and the amount payable was Rs.2500/- per seat for 31 seats, the petitioner was called upon to pay Rs.77,500/-.

It is not even the petitioner's case that the order passed by the Deputy Transport Commissioner is in violation of principles of natural justice. Factual aspects, as to whether or not the petitioner was plying through an unauthorised route, are matters which this Court would not examine in proceedings under Article 226 of the Constitution of India.

This Court, by order in W.P.M.P.No. 5894 of 2006 dated 10.3.2006 held that on deposit of the amount demanded, the vehicle may be released and the amounts already paid shall be given credit to.

As the vehicle was released only on payment of the demanded amount, and the petitioner would have paid the demanded tax in terms of the interim order passed by this Court to obtain release of

the vehicle, the cause in the writ petition does not survive necessitating adjudication from this Court. In any event, we find no illegality in the impugned demand notice necessitating interference in proceedings under Article 226 of the Constitution of India.

The writ petition fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

7th February, 2017

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