

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2018

CORAM

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

W.P.No.33222 of 2003

W.M.P.Nos.40190 and 40191 of 2003
and W.V.M.P.No.3 of 2012

K.Prabhu

...Petitioner

Cause Title Amended vide order
dated 29/10/2018 made in
WMP.NO.1928/07

Vs

1.The State of Tamilnadu,
represented by the Secretary to Government,
Home (Trpt.) Department,
Fort. St. George, Madras-600 009.

2.The State Transport Authority,
Chepauk, Madras-600 005.

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the proceedings of the S.T.A Chennai in R.No.21623/E3/1985 dated 23.10.2003 rejecting the renewal of counter-signature of the petitioner's vehicle TNV 2255 since replaced by A.P.03 U 4791 plying on the route Tirupathi to Tiruvannamalai and quash the same.

For Petitioner : Mrs.Radha Gopalan

For Respondents : Mr.K.Ravikumar
Additional Government Pleader

ORDER

The prayer sought for in this Writ Petition is for the Writ of Certiorari, calling for the records relating to the proceedings of the S.T.A Chennai in R.No.21623/E3/1985 dated 23.10.2003 rejecting the renewal of counter-signature of the petitioner's vehicle TNV 2255 since replaced by A.P.03 U 4791 plying on the route Tirupathi to Tiruvannamalai and quash the same.

2. This writ petition since having the chequered history, the necessary facts which are required to be noticed for the disposal of this writ petition provided are as follows:-

Originally, the transport permit to run stage carriage vehicle in the route between Tiruvannamalai and Thirupathi was given to the petitioner's predecessor viz., Venkateswara Bus Union by the State Transport Authority of Andhra Pradesh in the year 1961. Time and again, the said permit had been renewed by the State Transport Authority of Andhra Pradesh and counter signed by the State Transport Authority of Tamil Nadu.

2.1. While so, in the year 1972, there had been an interstate agreement between the State of Andhra Pradesh and Tamil Nadu, where the said route had also been included. Thereafter, in the year 1975, there had been another agreement between the two states and by virtue of that, the route "Thiruvannamalai and Thirupathi", had been entrusted to the Tamil Nadu State Government, of course, by saving existing operators.

2.2. The State Government issued G.O.Ms.No.3423/Home Transport-III Department dated 23.12.1977, published in Tamil Nadu Government Gazette by and which, a scheme has been notified, where the route Thiruvannamalai to Thirupathi consisting of 185.6 Kilometres has been mentioned. Under the said scheme entire private operators had been completely excluded except, those who are holding primary permit issued by Transport Authority of Andhra Pradesh, in accordance with the interstate agreement between Government of Andhra Pradesh and Tamil Nadu.

2.3. In this context, it is the case of the petitioner that, since the permit was originally granted by the Andhra Pradesh State Transport Authority which was renewed from time to time, and at the time of the interstate agreement, when the scheme referred to above was notified, by virtue of the clause mentioned in the scheme, the existing operators, who have been granted primary permit by the Andhra Pradesh Transport Authority, is very well saved. That is how, the permit of the petitioner's predecessor issued by the Andhra Pradesh State Transport Authority has been saved in the said route.

2.4. While that being so, the petitioner's predecessor approached the Tamil Nadu State Transport Authority for renewal of permit, which was expired in the year 1980. However, by order dated 30.06.1980, the Tamil Nadu State Transport Authority had rejected the application of the petitioner's predecessor to renew the permit. As against the order passed by the Tamil Nadu State Transport Authority, an appeal was preferred and the State Appellate Tribunal has also dismissed the appeal by confirming the order of State Transport Authority.

As against which the petitioner's predecessor i.e Sri Venkateshwara Bus Union approached this Court by filing Civil Revision Petition in C.R.P.No.1955 of 1980. It is to be noted that simultaneously the petitioner also filed a writ petition in W.P.No. 4632 of 1980 for appropriate relief. The learned Judge of this Court after having elaborately heard the said Civil Revision Petition as well as the Writ Petition had passed final order on 13.10.1982, allowing the Revision Petition as well as the Writ Petition filed by the petitioner, where a direction was also issued to the State Transport Authority to decide the renewal application of the petitioner afresh.

2.5. It is also to be noted that, as against the said order passed by the learned Single Judge as referred above, an intra Court appeal was also filed by the Transport Corporation and the intra court appeal, since was also dismissed, it seems that, they preferred Special Leave Petition(SLP) before the Hon'ble Apex Court, where by order dated 09.12.1982, the said SLP was also disposed by the Hon'ble Apex Court. Thereafter, further Writ Petition was filed by the petitioner in W.P.No.10883 of 1982, as the renewal application was still not disposed by the State Transport Authority and in the Writ Petition, an order was passed by this Court on 26.08.1983, where a direction was issued to decide the renewal application of the petitioner and till such decision is made, the petitioner shall be issued temporary permit to continue the transport operation. Thereafter pursuant to the said direction issued by this Court, the State Transport Authority decided the renewal application of the petitioner and passed an order on 17.09.1983. In the said order, the State Transport Authority has rejected the renewal application of the petitioner, on the ground that the original Authority, who gave the permit to the petitioner, was the Andhra Pradesh State Transport Authority and therefore the Tamil Nadu State Transport Authority cannot consider the renewal application, accordingly the said application was rejected.

2.6. As against the said order passed by the Tamil Nadu State Transport Authority further Writ Petition was filed by the petitioner in W.P.No.8998 of 1983, wherein an interim order was passed in W.M.P.No.13868 of 1983 on 27.09.1983, where, an interim order of stay was granted against the order passed by the Tamil Nadu State Transport Authority and also status-quo, in respect of the operation of the bus of the petitioner, was remained to be maintained.

2.7. Subsequently, the said W.P.No.8998 of 1983 was finally decided by an order of this Court dated 11.09.1991, where the plea was raised that on behalf of the petitioner, that, if at all, the Tamil Nadu State Transport Authority states that it does not have jurisdiction to renew the permit originally granted by the Andhra Pradesh State Transport Authority, the

cause of action available for them to transfer the said application to the Andhra Pradesh Authority, instead of rejecting it on the ground of jurisdiction. Accepting the said plea raised on behalf of the petitioner, this Court by order dated 11.09.1991 in W.P.No.8998 of 1983, directed the said Authority to transfer the application to the Andhra Pradesh State Transport Authority.

2.8. Accordingly, it seems that the application of the petitioner for renewal had been transferred to the Andhra Pradesh State Transport Authority, where the State Transport Authority of Andhra Pradesh passed an order on 31.12.1992 and the operative portion of the said order reads thus:

"since the original permit on the route "Thirupathi to Thiruvannamalai (via) Chittoor, Vellore and Polur" and granted by the Andhra Pradesh Authority and the renewal applications have been transferred by the state Transport Authority, Madras and as well as the State Transport Appellate Tribunal, Madras and in order to maintain continuity of services. I, the secretary, State Transport Authority, Andhra Pradesh under the delegated powers sanction is hereby accorded for the renewal of permit retrospectively in respect of busATC 1000 plying on Inter-State route "Thirupathi to Thiruvannamalai" from 03.06.1980 to 02.08.1983 and 03.06.1983 to 02.06.1986 and 03.06.1986 to 02.08.1989 and 03.06.1989 to 02.06.1994 on single point tax for the portion lying in the Andhra Pradesh State. The permit holder has produced the valid records for renewal of the permit. Accordingly the renewal is endorsed and the records are returned.

The permit holder is advised to approach the State Transport Authority, Madras to obtain countersignature of permit for the portion lying in Tamil Nadu State on single point tax."

Thus the State Transport Authority, Andhra Pradesh had granted the renewal of the permit to the petitioner upto 1994 and further directed the petitioner to approach the Tamil Nadu State Transport Authority to get the counter signature.

2.9. Pursuant to the said renewal order passed by the State Transport Authority, Andhra Pradesh and in order to get the counter signature, the petitioner made an application to the Tamil Nadu State Transport Authority and the said application, since was kept pending and no order was passed by giving counter

signature, the petitioner again approached this Court by filing W.P.No.12595 of 1996, where this Court passed an order on 01.08.2003, with the following directions:

"In view of the limited relief sought for during the course of arguments, this writ petition is disposed of with a direction to the second respondent, State Transport Authority, Chennai to consider and dispose of the application filed by the petitioner on 10.10.1996, for counter signature of the petitioner's permit in respect of the bus bearing Regn.No.AP-03-T-7002 plying on the route Tirupati to Tiruvannamalai in accordance with law and on merits within a period of four weeks from the date of receipt of a copy of this order either from the registry or from the petitioner. It is seen that pending the writ petition the petitioner is operating on the route by virtue of temporary permits. Hence, till the application of the petitioner is disposed of, status quo as on today shall be maintained subject to the currency of temporary permit.

With the above direction, the writ petition is disposed of. No costs. Consequently, W.M.P.No.17025 of 1996 is closed."

2.10. Only pursuant to the said direction issued by this Court, the said application of the petitioner seeking counter signature having the permit renewed by the Andhra Pradesh State Transport Authority, has been rejected by the impugned order dated 23.10.2003. Aggrieved over the same and on challenging the said order of the State Transport Authority, Tamil Nadu, dated 23.10.2003, this Writ Petition has been filed with the aforesaid prayer.

2.11. During the pendency of the Writ Petition the permit has been transferred by the original petitioner to one K.Mohan in favour of one K.Prabhu. Accordingly he filed a petition to substitute him, as the petitioner and the said petition has been allowed by this Court and that is how the present writ petitioner is coming to the picture, who is the permit holder.

3. I have heard Mrs.Radha Gopalan, learned counsel appearing for the petitioner, who has taken this Court to all the aforesaid proceedings right from 1980, where originally the Tamil Nadu State Transport Authority rejected the renewal proposal of the petitioner by order dated 30.06.1980. The learned counsel has specifically pointed out that, no doubt in

the year 1972, there had been an inter-state agreement between the Tamil Nadu Government and Andhra Pradesh Government and at the time of the inter-state agreement and also subsequently in the agreement of the year 1985, the route i.e., Thiruvannamalai to Thirupathi, was entrusted to the State of Tamil Nadu. The petitioner had already been in operation, as he had been given permit by the Andhra Pradesh Government, in the year 1961 onwards, which has been time and again renewed by the Andhra Pradesh Authority, by virtue of the said facts, it is submitted by the learned counsel appearing for the petitioner that, the petitioner is a saved operator. That apart, pursuant to the interstate agreement, the Tamil Nadu Government has issued a scheme and insofar as the present route, which is in question is concerned, G.O.Ms.No.3423 Home Transport-III Department dated 23.12.1977, has been notified by the Tamil Nadu Government Gazette dated 25.01.1978. Where the present route namely Thiruvannamalai to Thirupathi consisting of 185.6 Kilometres has become notified route, where all the private operators have been completely excluded, except those who are holding primary permit issued by the State Transport Authority of Andhra Pradesh, in accordance with the interstate agreement between Government of Andhra Pradesh and Tamil Nadu.

3.1. By relying upon this scheme, the learned counsel appearing for the petitioner would submit that, once the permanent/primary permit was issued by the Government of Andhra Pradesh Authority and the said permit has been with the petitioner right from 1961, and has been time and again renewed by the State Transport Authority of Andhra Pradesh and even though there had been inter-state agreement between two States and by virtue of that, the route had been included in the inter-state agreement and by the subsequent agreement, the route had been entrusted to the Tamil Nadu State Government and the existing operators, who have been given original permit by the Andhra Pradesh Authority had to be saved. That is the reason why, the State of Tamil Nadu issued the scheme not excluding the private operators, who have been issued permit by the Andhra Pradesh State Transport Authority as have been saved.

3.2. In this context, the learned counsel for the petitioner would also submit that, even though for the said route, as agreed between two states, there should be a minimum of one vehicle and maximum of four vehicles, the State Transport Authority of Tamil Nadu before issuing permit to the transport Corporation to ply vehicle in that route, the permit permanently already given by the State Transport Authority of Andhra Pradesh should have been excluded or saved and only remaining three permit could have been given by the State Transport Authority. This is exactly been given in the scheme itself, where even though all private operators have been excluded completely, the primary permit issued by the Andhra Pradesh State Transport

Authority, in accordance with the interstate agreement between two Governments, are saved.

3.3. This aspect has been pointed out at various point of time by the petitioner and the said stand of the petitioner has been accepted by this Court, where the directions were issued by this Court. Again the very same stand has been taken in the impugned order.

3.4. The learned counsel for the petitioner would further submit that, once the application for renewal of permit was given to the said Authority of Tamil Nadu, the same was rejected by the State Transport Authority, Tamil Nadu on the ground that since the Authority, who gave the primary permit was the Andhra Pradesh State Transport Authority, the Tamil Nadu State Transport Authority does not have any jurisdiction or power to renew the same, therefore by citing the said reason, the application of the petitioner for renewal was rejected by the State Transport Authority of Tamil Nadu. When the said stand taken by the State Transport Authority was questioned by the petitioner, this Court by order dated 11.09.1991 directed the State Transport Authority of Tamil Nadu to transfer the application to the Andhra Pradesh Authority for appropriate action to give renewal to the petitioner.

3.5. The learned counsel appearing for the petitioner would further submit that, pursuant to the directions issued by this Court, the application of the petitioner was transferred by the Tamil Nadu Authority to Andhra Pradesh, where the State Transport Authority, Andhra Pradesh by an order dated 13.01.1992 has given the renewal to the petitioner and had also directed the petitioner to approach the Tamil Nadu Authority for getting counter signature. Therefore, it is quite clear that the renewal has been given by the original Authority, as the petitioner being the original permit holder, even though there is a inter-state agreement, he is saved under the scheme announced by the State Government.

3.6. It was the stand of the State Transport Authority of Tamil Nadu that, the jurisdiction to grant renewal shall vest only with the Andhra Pradesh Authority and accordingly the application also was forwarded to the State Authority, who in turn, granted the renewal. The State Authority of Tamil Nadu, once again cannot turn around and take the very same stand stating that the counter signature sought for by the petitioner cannot be granted, on the ground that the route has already been plied by four vehicles of the Transport Corporation and also on the alleged reason that the petitioner permit is not saved by getting included in the agreement.

3.7. Therefore, the learned counsel appearing for the petitioner would submit that the reasons cited in the impugned order rejecting the counter signature sought for by the petitioner are totally untenable and those reasons are in fact contra to the facts and therefore the impugned order is liable to be interfered with.

4. Per contra, Mr.K.Ravi Kumar, learned Additional Government Pleader appearing for the respondents would submit that, it may be the fact that the petitioner would have enjoyed the permit issued by the Andhra Pradesh Authority right from 1961. However, when the interstate agreement reached between Tamil Nadu and Andhra Pradesh in the year 1972 and by virtue of that, entire route of Thiruvannamalai and Thirupathi had been entrusted to Tamil Nadu, where minimum one vehicle and maximum four vehicles can alone be permitted and already four vehicles of the Transport Corporation have been permitted to operate, the question of including the petitioner as an additional operator does not arise.

4.1. The learned Additional Government Pleader would further submit that the interstate agreement between the State does not save the petitioner, as saved operator and unless and until the petitioner's permit is included in the interstate agreement, the petitioner cannot take the stand that his permit, which was given originally by the Andhra Pradesh State Transport Authority has been saved to operate the route, which become the exclusive domain of the Tamil Nadu Authority, by the virtue of the interstate agreement.

4.2. The learned additional Government Pleader would also submit that, once the renewal application of the petitioner was rejected on the ground that the Tamil Nadu State Transport Authority does not have jurisdiction to give any renewal to the petitioner's permit, as the original permit was given only by the Andhra Pradesh Authority, this Court had given a direction only to transfer the application from Tamil Nadu Authority to Andhra Pradesh State Transport Authority, accordingly the application was transferred. Once the transferred application is decided by the Andhra Pradesh Authority, their jurisdiction become limited to give renewal for the petitioner's permit to the restricted route, which is not covered by the interstate agreement.

4.3. Further the learned Additional Government Pleader would submit that, in this context, the Andhra Pradesh State Transport Authority ought not to have given renewal to the petitioner for operating the route between Thiruvannamalai to Thirupathi, where already four vehicles are being in operation of the Transport

Corporation which is in fact maximum capacity of permit. Therefore, the Andhra Pradesh Authority by virtue of the renewal of the permit to the petitioner, compelled the Tamil Nadu Authority to give permit to the petitioner as the fifth vehicle, which is not permissible. Therefore, the learned Additional Government Pleader appearing for the respondents would further submit that, there is every justification on the part of the State Authority to pass the impugned order, rejecting the plea of the petitioner for getting counter signature.

5. I have considered the said rival submission of the learned counsel appearing on both sides and also have perused the material placed before this Court.

6. As I have stated, this case is having a chequered history. The original permit was granted to the Vekanteswara Bus Union by the State Transport Authority, Andhra Pradesh in the year 1961, to operate the bus in the route called "Thiruvannamalai and Tirupathi". Accordingly the petitioner was operating the route till 1972, where there had been an interstate agreement in the year 1972 between the State of Tamil Nadu and Andhra Pradesh. As per the interstate agreement, this route has also been included and subsequently it has been fully entrusted to the State Government of Tamil Nadu with condition that minimum one vehicle can be operated, at the same time maximum four vehicles can be permitted to operate.

7. It is to be noted that, when the inter-state agreement entered into between two states, the route has already been in operation, where the petitioner had been given permit by the Andhra Pradesh Authority, based on which he had been operating the route. It is to be also noted that, pursuant to interstate agreement, a scheme was issued by the State Authority for various routes in that G.O.Ms.No.3423 Home Transport-III Department dated 23.12.1977, where the relevant portion is extracted hereunder:

"(2) In Annexure I, for the entries under columns (1) to (3), the following entries shall respectively, be substituted, namely:-
Tiruvannamalai to Tirupathi (185.6 kilometres)
---Entire sector ---1 -2 ---Pucca ---1st
August -subject to the proviso to section 68-F (I-D) of the Motor Vehicles Act, 1939."

"To the complete exclusion of private operators, other than those holding primary permits issued by the Transport Authorities of Andhra Pradesh in accordance with the Inter-State agreement between the Governments of Andhra Pradesh and Tamil Nadu, in respect of permit covering the entire route referred to in item No.1 above."

8. In the said notification in schedule II, it is mentioned that as per annexure II, those who are operated now are saved. Along with the notification annexure I and II are given. In Annexure -II, in serial No.65, the petitioner's predecessors' operation has been specifically mentioned as which reads thus:

Serial number and name of the private operators	Route on which buses are operated (with route length, if available)	Sector overlapped (with distance)	Number of buses operated	Total number of single trips performed daily	Whether plying on temporary or pucca permit	Date of expiry of permit	Remark
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Serial number and name of the private operators		Route on which buses are operated (with route length, if available)	Sector overlapped (with distance)	Number of buses operated	Total number of single trips performed daily	Whether plying on temporary or pucca permit	Date of expiry of permit	Remark
65	T.N. Ragunatha Reddy, Madanapalli.	Mulkalcheruvu to Tirupathi (108 miles) Madanapalli to Puttur (104 miles) Pulicherla to Renigunta (50 miles) Tirupathi to Tiruvannamalai (116 miles)	Nedragunata to Tirupathi (22 miles) Do Do Do	1 1 1 1	3 2 4 4	Do Do	7 th January 1972 Do 31 st August 1970 2 nd June 1971	

9. In this context it is to be noted that even though the route has been covered by the interstate agreement between the two states and the maximum vehicle which were permitted also restricted as four, before granting permit to the maximum level of four for the said route, the Tamil Nadu State Transport Authority should have born in mind that already the petitioner being an existing operator, who is saved by the scheme referred

above has been in operation. However, when the petitioner made an application for renewal, the State Authority of the Tamil Nadu State rejected it on 30.06.1980, as against which the appeal was filed before the State Appellate Tribunal which also rejected the plea of the petitioner. Therefore, the petitioner approached this Court by filing the Civil Revision Petition and Writ Petition in C.R.P.No.1955 of 1980 and W.P.No.4632 of 1980, where the common order was passed by this Court by order dated 30.10.1982 where the issue has been elaborately discussed. The relevant portion of the order passed by the learned Judge of this Court, in the said case can be usefully extracted hereunder:

"The above principles are clearly attracted to the facts of this case. Consequently, the notification in the approved scheme so far as it affects the petitioner is concerned is vitiated by the violation of the principles of natural justice. Further, the present scheme also is based on the Inter-State agreement to the extent it prevents the operators of the respective States from operating has been struck down by the Andhra Pradesh High Court to which the Tamil Nadu State is a party. Consequently on that ground also the scheme must fail.

A contention was urged that the approved scheme provide for a minimum of one permit and a maximum of four and that consequently even if the approved scheme is valid the petitioner will be entitled as a matter of right to the renewal of the fourth permit. The answer of the respondent was since the maximum prescribed in the permit is four, Tiruvalluvar Corporation will be entitled to all the four permit and as a matter of fact the same has been granted. This is met by the learned counsel for the petitioner by the argument that the fourth permit was granted to the corporation only after the petitioners application was rejected and that the appellate Tribunal has granted stay. It is unnecessary to express a final opinion on this point, in view of the conclusion reached by me that the approved scheme will not adversely affect the petitioner./ In the result in the civil revision petition the orders of the State Transport Authority are set aside. The civil revision petition is allowed. The

writ petition is also allowed and the State Transport Authority is directed to dispose of the renewal application afresh. No costs."

10. Pursuant to the allowing of the Civil Revision Petition as well as the Writ Petition filed by the petitioner, though the Transport Corporation had filed the Writ Appeal, the same was also failed. Then they approached the Hon'ble Apex Court and filed the Special Leave Petition, which was also dismissed, by order of the Hon'ble Apex Court dated 09.12.1982. Once the issue has been concluded by the series of proceedings, which ended in the dismissal of the SLP as set out, the very same issue cannot be reopened by the State Authority.

11. Nevertheless, since the renewal application was not considered by the State Authority, a direction was sought for in the subsequent Writ Petition in W.P.No.10883 of 1982, where the direction was also given that temporary permit shall be given, till the decision is taken in this regard. Pursuant to the direction issued by this Court, the State Transport Authority, Tamil Nadu once again rejected the application of the petitioner by order dated 17.09.1983, where they have taken the stand as follows:-

"11. The permit for which renewal has been applied for was originally granted by the State Transport Authority, Andhra Pradesh and renewed last by him in Endt. No.356/E1/77 dt.11.5.77 for 3 years as already mentioned in para I and 2 above. When the Inter-State Agreement does not apply to this route, the primary Authority who granted that pucca permit will have to be approached for renewal also as per section 58 of the Motor Vehicles Act and Rules 183 of Tamil Nadu Motor Vehicles Rules, 1940. This Authority cannot consider the application for renewal of the permit whose reallocation from Andhra Pradesh State Transport Authority to State Transport Authority, Madras has been struck down by the High Court, Andhra Pradesh and High Court, Madras.

12. For the above reasons, the application for the renewal of permit of stage carriage TMV 2255 since replaced by Tnm 8874 plying on the Inter-State route Tiruvannamalai to Tirupathi (via) vellore and chittoor for a period of Five years from 3.6.1980 is rejected. Since, the

application for renewal of the permit is rejected, the Temporary permit granted to the vehicle from 7.9.1983 to 6.1.84 or pending further order whichever is earlier is also withdrawn and treated as cancelled. The applicants are therefore directed to stop plying the bus TNM 8874 on the above Inter-State route immediately and return the temporary permit for cancellation. The Registration certificate of the vehicle may be sent for cancellation of tax endorsement."

12. When that order was questioned by the petitioner in W.P.No.8998 of 1983 an interim order dated 11.09.1991, was granted by this Court, which reads thus:

"(ii) that all further proceedings pursuant to the proceeding of the State Transport Authority, Chepauk, Madras 600 008 the second respondent herein in R.No.7190/E3/80 dated 17.9.1983, in so far as it relates to the petitioner herein be and hereby are stayed pending further orders in W.M.P.No.13868 of 1983, and

(iii) that the State Transport Authority, Chepauk Madras-5 the first respondent herein do maintain the status quo is on 17.9.1983 of the petitioner's bus TNM 8874 plying on the route Tirupathi to Tiruvannamalai pending further orders in W.M.P.No.13869 of 1983."

Thereafter the said Writ petition in W.P.No.8998 of 1983 was finally disposed of with the following directions:-

"3. Learned counsel for the petitioner contended that instead of rejecting the application filed by the writ petition for renewal the Authority could have transferred the application to the concerned Authority of the Andhra Pradesh. Accepting the request of the learned counsel for the petitioner that instead of rejecting the application filed by the writ petitioner the Authority viz., State Transport Authority is hereby directed to forward the application for renewal to the concerned Authority in the Andhra Pradesh. Accordingly the writ petition is ordered."

13. Only pursuant to the aforesaid proceedings, the application for renewal of the petitioner had been transferred to the Andhra Pradesh State Transport Authority, where the State Transport Authority, Andhra Pradesh has passed the order giving

the renewal of the permit to the petitioner and the relevant portion of the said order dated 13.12.1982 has already been extracted above. Therefore the only issue pending for consideration before the Tamil Nadu State Transport Authority was to give counter signature.

14. With regard to the said issue of giving counter signature for renewal of permit of the petitioner, which was rightly renewed by the Andhra Pradesh Authority, now the Tamil Nadu State Transport Authority has given the reasons in the impugned order stating that, such counter signature cannot be granted. Primarily three grounds or reasons are given by the State Authority in the impugned order dated 23.10.2003 for the rejection of the plea of the petitioner. The first reason is that, the request of the petitioner to renew the permit was in fact rejected by the Andhra Pradesh Authority and only based on the direction issued by the Hon'ble High Court of Andhra Pradesh, it was renewed. The relevant portion of the said reason in the impugned order reads thus:-

"It is also for consideration whether the primary authority (i.e) State Transport Authority, Andhrapradesh power to renew the permit of this petitioner, There also the State Transport Authority, Andhra pradesh has rightly rejected the application for renewal of permit of this petitioner on his route and the state transport authority, Andhrapradesh State had chosed to renew the same on the direction from the High Court, Andhrapradesh State."

15. In respect of this reason, the learned counsel for the petitioner has vehemently contended that, absolutely this is a false reason as the petitioner never approached the Andhra Pradesh High Court for getting renewal of the permit. She would further submit that, the application of the petitioner, since was transferred to Andhra Pradesh Authority by Tamil Nadu Authority, as per the direction of this Court, the Andhra Pradesh Authority after having considered the fact that, it was the Original Authority to give the basic permit to the petitioner right from 1961 onwards, had granted the renewal upto 1997 and in fact directed the petitioner to approach the Tamil Nadu Authority to get counter signature. Since no proof has been filed by the respondents to substantiate the said reason that the petitioner after having approached the Andhra Pradesh High Court, such renewal was given, the said reason cannot be taken into account as valid reason.

16. The State Transport Authority of Tamil Nadu in the impugned order has given the other reason which reads thus:

"According to the recent judgment of

the High Court, Chennai in WMP No.4997/2001 in M.V.MP.Nos.27191;27193;27414/2001 in W.P.No.3606/2001 dated 10.10.03 a vehicle can be operated on Inter state route in question is included in the Inter State agreement entered into between the states. As mentioned above, the route in question do not fall within the purview of the Inter State agreement between the states of Tamilnadu and Andhrapradesh. Further the renewal of countersignature of permit cannot be considered outside the scope of Inter state agreement also."

17. With regard to the said reason that, since the petitioner is not covered by the inter-state agreement, the renewal of counter signature of permit cannot be considered as outside the scope of interstate agreement, the learned counsel appearing for the petitioner has submitted that, as per the scheme dated 23.12.1977, the primary permit holder of Andra Pradesh Authority are exempted from the private operators of the inter-state route and as per the annexure -II to the said scheme, since the petitioner's operation has been specifically mentioned as it has been saved and therefore once again the name of the petitioner or its permit need not find placed in the inter-state agreement, between States and therefore the said reason is absolutely unjustifiable.

18. In this context, the learned counsel appearing for the petitioner has relied upon the decision of the Hon'ble Apex Court, reported in (2016) 8 SCC 402 in the matter of GD Venkadasamy Reddy vs Transport Authority and others, where the learned counsel relied upon the dictum of the Hon'ble Apex Court in paragraphs 15... onwards, where the relevant portion reads thus:

51.11. Even if there is an inter-State agreement under section 63 of the Act for increasing the number of trips, such an agreement cannot override the provision of Chapter IV-A by virtue of section 68-B of the Act. Section 63 being in Chapter IV of the Act, the Scheme approved under Chapter IV-A will prevail over it.

51.12. The approved scheme will exclude the operation of other stage carriage services on the route/area covered by the scheme, except those whose names are mentioned in the scheme and to the extend to which such exception is allowed."

19. By virtue of the said dictum of the Hon'ble Apex Court, it is made clear that, merely because of the inter-state agreement, where the route or operators permits not found place,

it cannot be said that the operator is not saved, if the operator is saved by the scheme notified by the state. Here in the case on hand, the name of the operator i.e., the petitioner has been mentioned in the scheme and the same has already been extracted herein above and by virtue of that, since the petitioner being the existing operator, he is fully saved under the scheme and therefore he cannot be excluded from the purview of the operation merely because of the inter-state agreement. Therefore the second reason stated in the impugned order as referred to above, also would not stand in the legal scrutiny.

20. It is further to be noted that, the further reason given by the Authority in rejecting the counter signature plea made by the petitioner through the impugned order that, the route will be having the maximum of four vehicles and already four vehicles are being in operation, by virtue of the permit given to the Transport Corporation and therefore, the petitioner's permit cannot be considered by giving counter signature by the Authority. This reason is also would not stand in the legal scrutiny because, before the interstate agreement itself, the petitioner was in operation as he was given primary permit by the Andhra Pradesh Authority. Once the petitioner approached the Tamil Nadu State Transport Authority for grant of renewal, the same was rejected in the year 1980, and only after rejecting the application of the petitioner for renewal, the fourth vehicle was permitted by the Authority to the Transport Corporation. In fact, this was specifically mentioned in the order of the learned Judge made in C.R.P.No.1955 of 1980 and W.P.No.4632 of 1980. The learned Judge of this Court has mentioned that only after rejecting the application of the petitioner, the fourth permit had been given to the Transport Corporation. Once the said rejection was found to be unlawful and thereafter series of litigation had been there, as referred above and ultimately it was the decision of the State Transport Authority of Tamil Nadu that it does not have jurisdiction to renew the permit, since the originally Authority, who gave the primary permit to the petitioner, was Andhra Pradesh State Transport Authority and accordingly, of course, pursuant to the direction issued by this Court, the application of the petitioner was transferred to the Andhra Pradesh Authority, where renewal has been given with the direction to approach Tamil Nadu Authority for getting counter signature, the said reason given by the Tamil Nadu State Transport Authority is not acceptable.

21. It is also to be noted that, through out the legal battle, the petitioner has been operating the bus, of course, by virtue of the orders passed by this Court on various point of time. Even during the pendency of this Writ Petition, the petitioner has been in operation by virtue of the interim order passed by this Court. Therefore the reasons given by the

Transport Authority of Tamil Nadu State, right from the earliest rejection order made in the year 1980, till date and the issue, was in fact, concluded by the orders passed by the Hon'ble Apex Court as early as in the year 1982, the State Authority of Tamil Nadu cannot now turn around and say that there has already been four vehicle permitted by the Transport Corporation and therefore the petitioner has no role to operate.

22. In fact, during the hearing, it was suggested by the learned counsel appearing for the petitioner that, insofar as the petitioner's permit is concerned it is fully saved and insofar as the fourth vehicle being plied by the Transport Corporation is concerned, the petitioner may not have any objection for the said fourth vehicle and therefore while the petitioner permitted to ply continuously by giving the counter signature, the fourth vehicle being in operation of the Transport Corporation, can also be permitted. Even though the said suggestion given by the petitioner's side was placed before the learned Additional Government Pleader, who, on getting oral instruction from the respondents, would submit that, the respondents are not agreeing for the same. Be that as it may.

23. The petitioner need not seek for any concession, because the petitioner's right to operate the route has already been saved by the very scheme issued by the State of Tamil Nadu and by series of orders passed by this Court and also by virtue of permit renewed by the Andhra Pradesh Authority. Therefore the Tamil Nadu State Transport Authority cannot now state that the fourth vehicle has already been in operation and therefore, the petitioner's request for renewal/counter signature cannot be given. It is up to the respondents to decide to have the fourth vehicle of the Transport Corporation or to withdraw the same because, the petitioner has expressed through his counsel that he does not have any objection in Transport Corporation running the fourth vehicle in that route.

24. Therefore, it is quiet clear that, all these reasons stated in the impugned order are totally unjustifiable and for the said reasons the renewal of counter signature for the petitioner permit should not have been rejected by the respondents. Therefore this Court has no hesitation to hold that the impugned order is unsustainable and therefore it deserves to be interfered with and accordingly the impugned order is quashed.

25. In the result, this Writ Petition is ordered with the following terms:-

(i) The respondents especially the second respondent is hereby directed to issue the renewal of counter signature for the petitioner's permit to run the vehicle for the route between Thiruvannamalai to Thirupathi on the basis of the renewal of

permit granted by the Andhra Pradesh State Transport Authority by order R.No.916/E1/83 dated 31.11.1982, within the period of eight weeks from the date of receipt of a copy of this Order.

(ii) Since the petitioner has been in continuous operation all along, the said position shall continue till the necessary order is passed by the second respondent as directed above for giving counter signature.

With the above directions, this Writ Petition is allowed. There shall be no orders as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rts/rst

To

1.The Secretary to Government,
State of Tamilnadu,
Home (Trpt.) Department,
Fort St. George, Madras-600 009.

2.The State Transport Authority,
Chepauk, Madras-600 005.

+2cc to Mrs.Radha Gopalan, Advocate sr.no.75799

+1cc to Government Pleader sr.no.76460

सत्यमेव जयते

W.P.No.33222 of 2003
W.M.P.Nos.40190 and 40191 of 2003
and W.V.M.P.No.3 of 2012

nr 14/12/2018

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