

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 07.09.2018

CORAM  
THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 23106 of 2017  
and  
W.M.P. 24217 of 2017

Suresh Heavy Vehicle Driving School,  
rep. by its Proprietrix A. Rani

... Petitioner

Vs

1. The State of Tamil Nadu,  
rep. by its Principal Secretary,  
Home (Transport) Department,  
Fort St. George,  
Chennai-600 009.
2. The Commissioner of Road Transport,  
"Ezhilagam, Chepauk,  
Chennai-600 005.
3. The Licensing Authority/Regional  
Transport Officer,  
Thiruvannamalai,  
Thiruvannamalai Dt.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of CERTIORARIFIED MANDAMUS, calling for the records relating to the order of the 1<sup>st</sup> respondent dated 05.08.2010 in G.O.Ms. No.697, Home (Transport-5) Department, the consequential order of the 2<sup>nd</sup> respondent dated 17.06.2015 in R.No.22370/H1/2008, and the consequential order of the 3<sup>rd</sup> respondent dated 16.06.2017 in Na.Ka.No.A2/26995/2017 and quash the same only in so far as it relates to the petitioner and consequently direct the respondents to permit the petitioner to conduct the One Day Refresher Course for the Heavy Vehicle Drivers.

For Petitioner : Mr.K.Selvaraj  
For Respondents : Mr.A.N.Thambidurai  
Special Government Pleader

## O R D E R

This writ petition has been filed challenging the order passed by the 3<sup>rd</sup> respondent refusing to grant permission to the petitioner for conducting the refresher course for the Heavy Vehicle Drivers.

2. According to the petitioner, he has established a driving school from the year 1987, and he was also granted license to give training to the Heavy Vehicle Drivers upto 20.04.1990, and the license has been periodically renewed till 16.11.1998. Subsequent to that, at the request of the petitioner, the license was not renewed from 13.03.2001. Thereafter, once again, the petitioner has submitted his request to renew his license and the 3<sup>rd</sup> respondent also granted license to the petitioner from 04.10.2013. In pursuant to the license, the petitioner is now conducting the Heavy Vehicle training from 04.10.2013.

3. Earlier, the Government issued an order in G.O.Ms.No.604, dated 26.05.2008 permitting the Private Heavy Vehicle Driving Schools recognised by the Transport Commissioner to conduct one day refresher course and to issue certificate to the heavy vehicle drivers for renewing their licenses as well as for making endorsements in their license.

4. Thereafter, the above Government Order has been amended by another Government Order in G.O.Ms.No.697, Home (Transport-V) Department, dated 05.08.2010, wherein only the Government Institutes are permitted to give training and other private heavy vehicle driving schools were denied. When the above Government Order has been challenged before this Court in a batch of Writ Petitions, this Court by an order dated 27.06.2011 directed the Writ Petitioners to submit their representation to the 1<sup>st</sup> Respondent and directed the 1<sup>st</sup> respondent to consider the representation for imparting training. Then, in another batch of Writ Petitions were filed, when their applications were not considered, and this Court passed an order directing the 1<sup>st</sup> respondent to consider their applications and till then, an order of status quo was granted till the disposal of the representation. Pursuant to the order passed by this Court, one Thangam Driving School, which is similarly placed as that of the petitioner has filed a Writ Petition and this Court has also passed an order.

5. In view of the same, after obtaining the license, the petitioner has also filed an application seeking for permission to conduct one day refresher course, but the petitioner's request has been rejected by the authorities on the ground that those petitioners, who have filed the earlier Writ Petitions and obtained the order of status quo alone are entitled to get

permission to conduct one day refresher course, since the petitioner did not file any Writ Petition earlier, his application cannot be considered. Now, challenging the said order, the present Writ Petition has been filed.

6. The 3<sup>rd</sup> respondent has filed the counter affidavit stating that the Government Order in G.O.Ms.No.604, Home (Transport-V) Department, dated 26.05.2008 permitted private driving schools to conduct one day refresher course for heavy vehicle drivers. At the time of issuance of G.O., the petitioner driving school is having only light motor vehicle driving license did not possess heavy vehicle motor license. Thereafter, the above Government Order has been amended permitting only the Tamil Nadu Transport Corporation to impart training, which was challenged before this Court, wherein this Court directed the petitioners therein to approach the concerned authorities. The present petitioner was not a party in the earlier Writ Petitions.

7. Thereafter, the petitioner has submitted the application on 07.08.2016 to the 2<sup>nd</sup> respondent seeking permission to conduct the One Day Refresher course to the heavy vehicle drivers. But, the 3<sup>rd</sup> respondent was not in a position to grant license in view of the G.O.Ms.No.697, Home (Transport-V) Department dated 05.08.2010 permitting the Heavy Vehicle driver training centres of Institute of Road Transport and Tamil Nadu State Transport Corporation only to impart one day refresher training course and to issue certificate. Since the petitioner school was not conducting the refresher course earlier as per the G.O.Ms.No.604, dated 26.05.2008, the petitioner is not entitled to get permission to conduct the refresher course now.

8. I have heard the submissions made by Mr.K.Selvaraj, learned counsel appearing for the petitioner and Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents and perused the materials available on record.

9. The case of the petitioner is that the petitioner has obtained heavy vehicle driving license from 04.10.2013, and it has been periodically renewed till date and he has been running the driving school for heavy motor vehicles. Even though G.O.Ms.No.604, dated 26.05.2008 has been modified in G.O.Ms.No.697, dated 05.08.2010, by virtue of the order dated 15.09.2015 passed by this Court, the members of the private school associations were permitted to make a representation before the 1<sup>st</sup> respondent and based on that, the 1<sup>st</sup> respondent was directed to consider and pass orders. In pursuance of the same, the number of similarly placed driving schools have filed a Writ Petition and the permission was also granted, but, the petitioner, who was also a member of the petitioner association,

his application has been rejected.

10. The learned counsel appearing for the respondent submitted that as per the amended G.O., only the Institute of Road Transport and Tamil Nadu State Transport Corporation is permitted to impart training. Pursuant to the orders passed by this Court, those petitioners, who have filed the Writ Petitions were given permission and the petitioner is not entitled for the same.

11. I have considered the rival submissions and perusal the materials carefully.

12. As rightly contended by the learned counsel appearing for the petitioner, this Court by an order dated 15.09.2015 in W.P.No.19362 of 2015 etc. directed the members of the petitioner association to make a representation before the 1<sup>st</sup> respondent and the 1<sup>st</sup> respondent was also directed to consider the same and pass orders, the relevant portion of the order reads as follows :-

"5. However, the learned counsel for the petitioners in W.P.No.19362 of 2015 submitted that the Driving School Owners Association had given a representation dated 11.07.2011 to the respondents in person and a copy of the same has been enclosed in page No.37 of the typed set of papers in W.P.No.19362 of 2015, but the petitioners are not able to produce the acknowledgment card. The learned counsel also submitted that after receipt of the representation, the then Secretary of the 1<sup>st</sup> respondent had assured that the grievances of the first respondent looked into and pending consideration, they permitted the petitioners to conduct the refresher course till date."

13. On perusal of the order, it could be seen that only the members of the association were directed to give representation, according to the petitioner, he is also a member of the association. Apart from that, the similarly placed private driving schools also were granted permission to run the training course. Merely because, the petitioner was not a party in the earlier Writ Petition, the benefit cannot be denied to the petitioner

14. In the above circumstances, the impugned order is set aside and the matter is remanded back to the 3<sup>rd</sup> respondent, and the 3<sup>rd</sup> respondent is directed to consider the application and pass suitable orders granting permission to the petitioner, if the petitioner is otherwise qualified.

15. With the above direction, the present Writ Petition stands allowed. No costs. Consequently, the connected Writ Miscellaneous Petition is also allowed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The State of Tamil Nadu,  
rep. by its Principal Secretary,  
Home (Transport) Department,  
Fort St. George,  
Chennai-600 009.
2. The Commissioner of Road Transport,  
"Ezhilagam, Chepauk,  
Chennai-600 005.
3. The Licensing Authority/Regional  
Transport Officer,  
Thiruvannamalai,  
Thiruvannamalai Dt.

+1cc to Mr.K.Selvaraj, Advocate, S.R.No.62196  
+1cc to the Government Pleader, S.R.No.62939

सत्यमेव जयते

W.P. 23106 of 2017  
and  
W.M.P. 24217 of 2017

VSN II (CO)

rrs 05/10/2018

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