

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2018

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.10454 to 10457 of 2006

And

W.P.M.P.Nos.11794, 11796, 11798 and 11800 of 2006

R.Subramaniam ... Petitioner in W.P.No.10454/2006
A.Palanisamy ... Petitioner in W.P.No.10455/2006
S.Sulochana ... Petitioner in W.P.No.10456/2006
V.Chinnasamy ... Petitioner in W.P.No.10457/2006

Vs.

1.The Revenue Divisional Officer,
Tiruppur.
2.The Regional Transport Officer,
Tiruppur. ... Respondents in all the W.Ps.

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent made in Na.Ka.No.6697/2004/A1 dated 31.12.2005 and quash the same so far as it affects the interest of the petitioner.

For Petitioner : Mr.M.Palani
For Respondents : Mr.R.Govindasamy
Special Government Pleader

COMMON ORDER

Heard the learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondents.

2. All the writ petitions arise out of identical issue and grounds and therefore, all the writ petitions are taken up together for common disposal.

3. All the writ petitioners are private bus operators and were issued with a valid permit for the Bus route earmarked by the second respondent. They are aggrieved by the impugned order passed by the first respondent dated 31.12.2005, stating that the buses operated by the writ petitioners must be terminated only at the new bus stand and should not be sent to the old bus stand at Thennampalayam, Tiruppur. According to the petitioners, the said action on the part of the first respondent amounts to variation of permit conditions and therefore, the petitioners ought to have been given notice of personal hearing before such action is initiated.

4. The learned counsel for the petitioners would submit that the

Regional Divisional Officer, the first respondent herein has no jurisdiction to vary permit condition, as he is not the authority recognized under the Motor Vehicles Act/Rules. Therefore, the resolution dated 31.12.2005 by the first respondent directing the Private Transport Operators, the petitioners herein, to halt at the new bus stand and not to proceed to old bus stand, suffered from jurisdictional error and the same is without the authority of law.

5. According to the learned counsel for the petitioner, the said legal issues had been settled to the effect that the Revenue Divisional Officer has no authority to pass orders regulating the motor vehicles' movement under the provisions of the Motor Vehicles Act/Rules.

6. The said legal position has been admitted by the learned Special Government Pleader representing the respondents. However, in the counter affidavit filed in the present proceedings, it is stated that the first respondent merely acted in place of the second respondent, namely Regional Transport Officer in proceedings dated 27.06.2003 and 29.07.2003 and therefore, the said action cannot be construed as without the authority of law. Mere consequential direction issued by the first respondent cannot be said as without jurisdiction.

7. Per contra, the learned counsel for the petitioners would submit that with regard to the proceedings of the second respondent in R.No.30234/A3/2003 dated 27.06.2003 and 29.07.2003, on the subject matter of legal issue, very recently, the learned Judge of this Court has passed an order, allowing a batch of writ petitions on 07.09.2017 in W.P.No.21334 of 2005 batch. In those writ petitions, the aforesaid proceedings dated 27.06.2003 of the second respondent was put to challenge and those writ petitions came to be allowed on the ground that the principles of natural justice was violated and no opportunity was afforded to the transport operator before issuing the said proceedings.

8. In view of the above position, the learned counsel for the petitioners would submit that the consequential resolution of the first respondent dated 31.12.2005, has no sanctity, apart from the jurisdictional error pointed out by him. Therefore, in all, the impugned order dated 31.12.2005, cannot be countenanced both in law and on facts and the same is liable to be set aside.

9. This Court has gone through the rival submissions of the learned counsel appearing for the parties. After perusing the material

and pleadings placed on record, this Court is of the view there is considerable force in the contention of the learned counsel appearing for the petitioners that the impugned proceedings of the first respondent dated 31.12.2005 is without authority of law, as the first respondent is not vested with the power under the provisions of the Motor Vehicles Act/Rules. Therefore, the impugned action by the first respondent is without any jurisdiction and the same is liable to be interfered with.

10. Moreover, even assuming that resolution dated 31.12.2005 is only consequential action in pursuance of proceedings of the second respondent dated 27.06.2003 and 29.07.2003, the said proceedings of the second respondent having been set aside by this Court, in the recent order dated 07.09.2017 in the aforementioned batch of the writ petitions, the impugned order cannot independently stand. Hence, even on this ground, the impugned order is liable to be interfered with.

11. For the aforesaid reasons, this Court has no hesitation in allowing the writ petitions. The impugned order passed by the first respondent in Na Ka.No.6697/2004/A1 dated 31.12.2005 is hereby

set aside. Accordingly, the Writ Petitions are allowed. No costs.
Consequently, connected miscellaneous petitions are closed.

10.04.2018

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

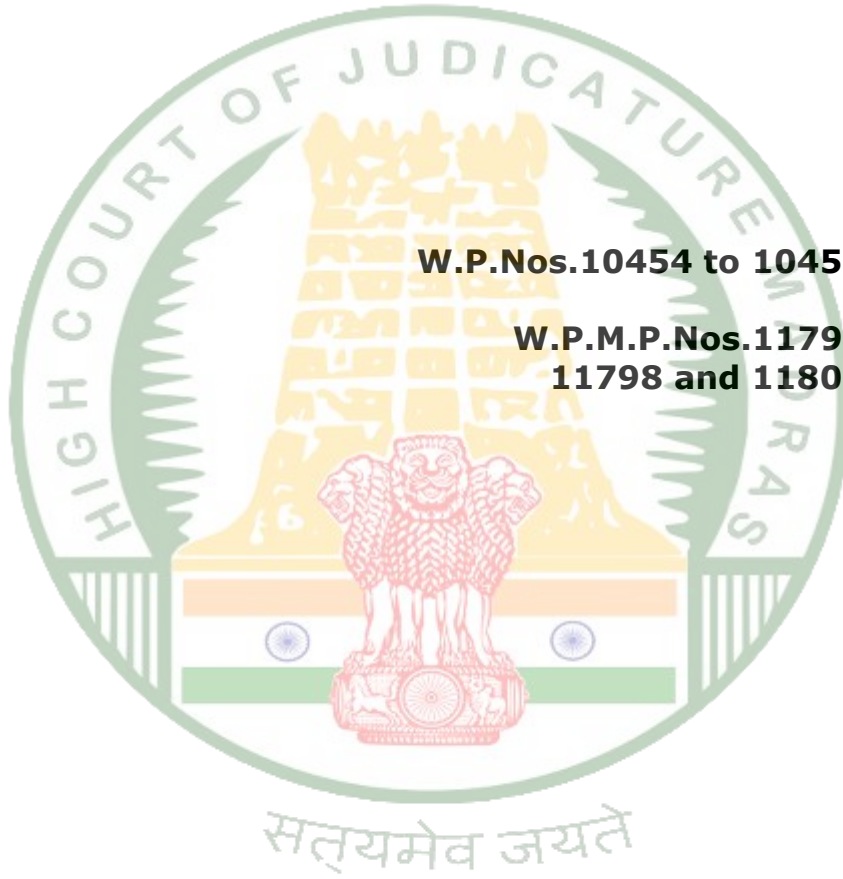
To

- 1.The Revenue Divisional Officer,
Tiruppur.
- 2.The Regional Transport Officer,
Tiruppur.



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M.DHANDAPANI,J.
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