

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 23645 of 2018

and

W.M.P.s 27595 & 27596 of 2018

K.Sridhar

... Petitioner

Vs.

1. The Regional Transport Authority,
Chennai- North Region,
Chennai-600 023.

2. The Regional Transport Officer,
Chennai (Central),
Chennai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order of the 1st respondent vide Na.Ka.No.B2/25437/2016, dated 29.04.2016 and to quash the same and further to direct the respondent to grant the renewal of contract carriage auto rickshaw permit of the petitioner in respect of vehicle bearing Regn.No.TN-01 AL-5746.

For Petitioner : Mr.S.Govindaraman
For Respondents : Mrs.K.Bhuvaneshwari,
Addl. Government Pleader

O R D E R

This Writ Petition has been filed for challenging the order passed by the 1st respondent rejecting the petitioner's application for renewal of contract carriage auto rickshaw permit on the ground that it has been filed beyond the period of limitation.

2. The case of the petitioner is that he was granted with a contract carriage auto rickshaw permit and the permit was expired on 04.08.2015. The vehicle developed major repairs, and the petitioner did not have enough funds to rectify the repairs, apart from that, his family was also seriously affected in the floods during December 2015, he has not filed the application in time as per Sec.81(2) of the Motor Vehicles Act (hereinafter called as 'Act'). Subsequently, the petitioner has submitted his

application with the delay of 268 days. Now, the above application has been rejected by the 1st respondent without considering the bonafide reasons stated by the petitioner. Hence, he has filed the present Writ Petition.

3. Mr.S.Govindaraman, learned counsel appearing for the petitioner submitted that under Sec.81(3) of the Act, the 1st respondent has power to condone the delay in filing the applications for renewal of contract carriage auto rickshaw permit. Apart from that as per Rule 193-A of the Tamil Nadu Motor Vehicles Rules, 1989 (hereinafter called as "Rules"), if the application for renewal of permit was not filed within time, the applicant is permitted to file the application belatedly by paying the additional fee as per Rule 279 of Rules. In the said circumstances, the 1st respondent having vested with power to condone the delay, has simply rejected the application without considering the bonafide reasons stated by the petitioner.

4. Mrs.K.Bhuvaneshwari, learned Additional Government Pleader appearing for the respondents submitted that under Sec.81(2) of the Act, the permit would be renewed on the application submitted 15 days before the expiry of the permit period, but the petitioner has filed the application beyond the period of limitation with the delay of 268 days without any sufficient reasons. On considering those materials, the 1st respondent has rightly rejected the application after considering the reasons stated by the petitioner.

5. I have considered the rival submissions and perused the records carefully.

6. Sec.81(2) of the Act prescribes that a permit may be renewed on the application made not less than 15 days before the expiry of license. However, under Sec.81(2) of the Act, authorities are empowered to entertain the application for renewal even after the last date specified under Sec.81(3) of the Act, and if applicant satisfy the authorities that the applicant is prevented by good and sufficient case. The relevant portion of the Act is extracted hereunder :-

"81. Duration and renewal of permit .---

(1).....

(2) A permit may be renewed on an application made not less than fifteen days before the date of its expiry.

(3) Notwithstanding anything contained in sub-section (2) the Regional Transport Authority or the State Transport Authority, as the case may be, may entertain an application for the renewal of a permit after the last date specified in that sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified."

7. Rule 193-A of the Tamil Nadu Motor Vehicles Rules (hereinafter called as "Rules") prescribes the additional fee

for filing the application for renewal of permit after expiry of last date and Rule 279 of the Rules prescribes the fees payable for the belated submission of application charging the late fee of Rs.100/-. From the perusal of the above provisions, it is clear that the authorities are empowered to condone the delay in filing the application for renewal, provided the authority is satisfied with the reason for the delay in filing the application. In the instant case, the petitioner has stated that his auto rickshaw developed a major repair and he also did not have funds to repair it immediately. That apart, his family was seriously affected in the floods in Chennai during the year 2015. In the said circumstances, he was not able to submit his application in time.

8. Considering the above facts, I am of the view that the reasons stated by the petitioner is sufficient for condoning the delay in filing the application and this court find no malafide intention in filing the application belatedly, as the petitioner is only eking out his livelihood from the income derived from auto rickshaw. The limitation prescribed by the statute is only to prevent the parties indulging dilatory tactics with the malafide intention. In the said circumstances, this Court is of the opinion that the cause shown by the petitioner is sufficient. But, the authority without considering the same has rejected the application.

9. On considering the above facts and circumstances, the impugned order passed by the 1st respondent is set aside and the 1st respondent is directed to consider the petitioner's application and pass suitable orders for renewal of auto rickshaw permit within a period of four weeks from the date of receipt of the copy of this order.

10. With the above direction, the Writ Petition is allowed. No costs. Consequently, the connected Writ Miscellaneous Petitions are also allowed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Transport Authority,
Chennai- North Region,
Chennai-600 023.

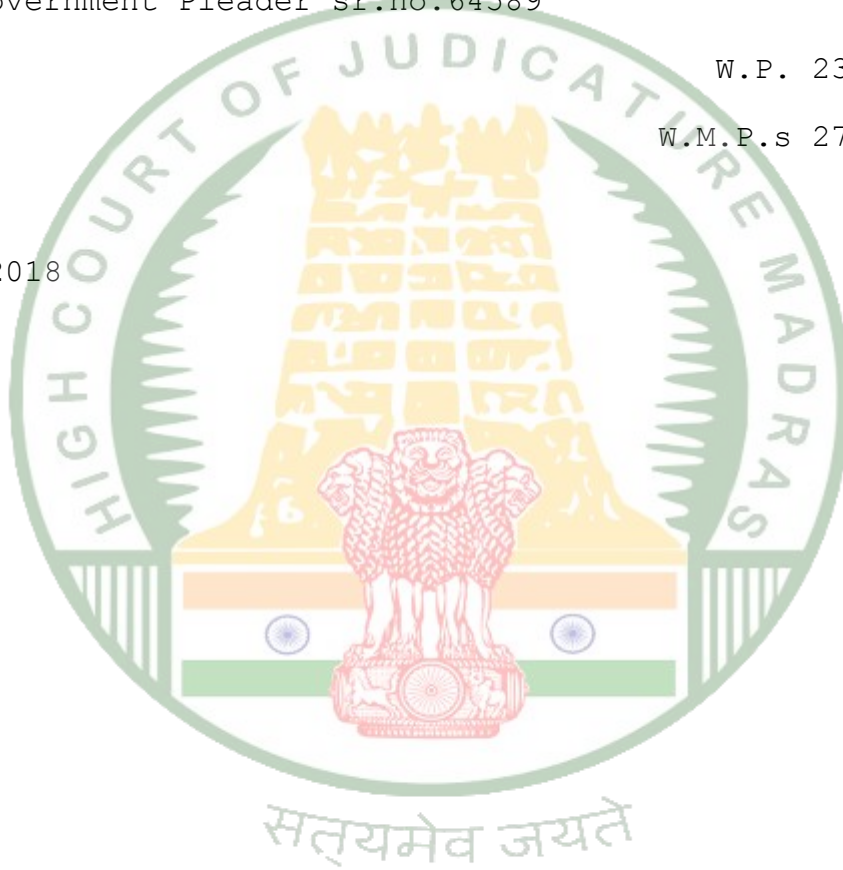
2. The Regional Transport Officer,
Chennai (Central),
Chennai.

+lcc to Mr.S.Govindaraman, Advocate sr.no.64337

+lcc to Government Pleader sr.no.64589

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and
W.M.P.s 27595 & 27596
of 2018

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