

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

WRIT PETITION NO.18581 OF 2017

AND

W.M.P.NO.20129 OF 2017

All India Transport Drivers Peravai,
Represented by its President C.Gunasekaran,
Old No.69, New No.16,
AL Block, 4th Street, Anna Nagar,
Chennai - 600 040.

..... Petitioner

vs.

1. The Secretary, (Transport)
Home Department,
Government of Tamilnadu
Fort St.George, Chennai - 600 009.

2. The State Transport Authority -cum-
The Transport Commissioner,
Chepauk, Chennai - 600 005.

3. K.Suresh
(3rd Respondent impleaded as per order
of this court dated 13.08.2018)

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the respondents and their subordinate officials from initiating proceedings against the driving licenses of the drivers of the Transport vehicles for overloading.

For Petitioner : Mr.S.Govindraman

For Respondents: Mr.A.N.Thambidurai,
Special Government Pleader for RR1 & 2
Mr.V.Sanjeevi for R3

O R D E R

This writ petition has been filed seeking a direction to the respondents from initiating proceedings against the driving licenses of the drivers of the petitioner association Transport vehicles for overloading.

2.The petitioner is an Association known as "All India Transport Drivers Peravai". The owners of the Tipper Lorry are the members of the said Association. The grievance of the petitioner is that the transport authorities had initiated proceedings by suspending or cancelling the driving licences of the Drivers of transport vehicles on the ground of overloading of goods in the vehicles. According to the petitioner, without conducting any enquiry and without affording any opportunity to the persons affected, the authorities concerned have suspended the driving licences. Hence, the members of the petitioner association filed the present writ petition with the above prayer.

3.The respondents 1 and 2 have filed a detailed counter affidavit wherein, it is stated that overloading in goods vehicles causing many damages to the public properties including the roads. It is stated that Section 84 of the Motor Vehicles Act (hereinafter referred to as "the Act") stipulates the condition attached to all permits. It is further submitted that Section 113 of the Act deals with limit of weight and limitation on use of Motor Vehicles. Section 113(3)(b) of the Act, provides that no person shall drive or cause or allow to be driven in any public places of a motor vehicles or Trailer the laden weight of which exceeds the gross vehicles weight specified in Certificate of Register of the vehicle.

4.Section 194 of the Act, also deals with driving vehicle exceeding permissible weight and it also states that whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of Sections 113 to 115 of the Act shall be punishable. The said Act, further states that opportunity of being heard will be given to the Drivers of the vehicle by way of issuing show cause notice to the affected persons before suspending the driving license.

5.The grievance of the petitioner is that the respondent transport Authorities have seizing the vehicles on the ground of carrying goods exceeding the permissible weight, without conducting any enquiry whatsoever. But, in the counter affidavit it has been clearly stated that before taking any action against the Driver or Permit Holder, necessary show cause notice will be issued to them and only after conducting enquiry, an action will be taken against them.

6.In view of the same, since the respondents 1 and 2 themselves admitted that necessary show cause notice will be issued before taking any action against the Driver or the Permit Holder of the Lorry concerned, that is sufficient to redress the grievance of the petitioner.

7.In the above circumstances, the respondents are directed to follow the procedure prescribed under the Act, before suspending the license as well as for violation of any permit condition and take action as per Motor Vehicles Act.

8.With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

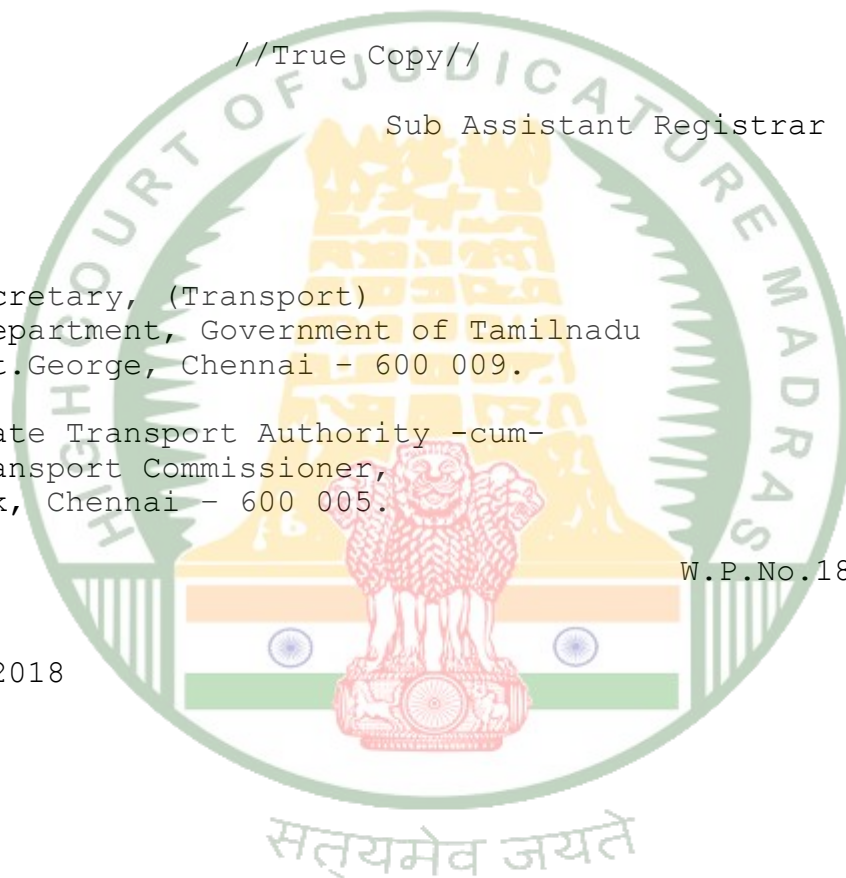
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To

1. The Secretary, (Transport)
Home Department, Government of Tamilnadu
Fort St.George, Chennai - 600 009.
2. The State Transport Authority -cum-
The Transport Commissioner,
Chepauk, Chennai - 600 005.

W.P.No.18581 of 2017

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