

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.07.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9610 of 2015
in
M.P.Nos. 1 to 3 of 2015

Ambulance & Amarar Oorthi Ootuanrgal &
Urimaiyalargal Nala Sangam
Rep. By its Secretary,
5-A, Sajeewarayan Pettai,
3rd Street,
Tindivanam-604 001. Petitioner

vs

- 1.The State of Tamil Nadu,
Rep. By its Secretary,
Transport Department,
Fort St, George, Chennai-9.
- 2.The Regional Transport Officer,
RTO Office,
Pondy-Marakannam Road,
Jayapuram, Tindivanam-604 002.
- 3.The Brake Inspector,
RTO Office,
Pondy-Marakannam Road,
Jayapuram,
Tindivanam-604 002. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the 2nd & 3rd respondents from interfering with the petitioner's members right to practice trade as guaranteed under Article 19 (1) (g) of the Constitution of India except by following the due process of law i.e by following the procedures envisaged under the provisions of Motor Vehicles Act.

For Petitioner	: Mr.D.Ravichander
For Respondents	: Mr.M.Elumalai, Government Advocate.

O R D E R

The relief sought for in this Writ Petition is to forbear the 2nd & 3rd respondents from interfering with the right of the members of petitioner's Sangam to practice trade as guaranteed under Art 19 (1) (g) of the Constitution of India except by following the due process of law.

2. The grievances of the writ petitioner is that they are providing mortuary vans for the benefit of the people of that locality. However, the authorities/respondents are interfering with the free practice of trade by the writ petitioner. Thus, the writ petitioner is constrained to move the present writ petition.

3. The learned Government Advocate appearing on behalf of the respondents state that the writ petitioner have carried out certain alterations in the vehicles, which is not permitted under Section 52 of the Motor Vehicles Act (Amended Act 27 of 2000). As per the provisions of the Motor Vehicles Act, alterations in the vehicles cannot be made without prior permission of the competent authorities. Contrarily, the act of the members of the writ petitioner's Sangam is likely to cause danger to the public at large. Thus, the authorities are bound to initiate action in the event of identifying such violation of the Statute or Rules by the members of the petitioner's Sangam.

4. The learned counsel for the writ petitioner states that certain small alterations are done without violating the procedure. However, any alterations made in the vehicle is subject to inspection by the competent authorities and if any violations are found, then the authorities competent are bound to initiate actions under the provisions of law.

5. Violators of law can never be permitted to modulate alterations or modifications in the motor vehicle, which are impermissible and permissible alterations alone can be done and if any new development or alterations made, then the written order or permission from the competent authorities are required. In the absence of such orders received by the members of the petitioner's Sangam, they are not permitted to alter the vehicle used by them as mortuary vans or otherwise. Thus, there is no prohibition for the members of the petitioner's Sangam to practice trade as guaranteed under Article 19 (1) (g) of the Constitution of India. The members of the petitioner's Sangam are at liberty to practice free trade and business, as guaranteed. However, such guarantee granted under the Constitution are subject to restrictions imposed under the Statutes and other laws in force.

6. No right is absolute, even under the Constitution. Even the fundamental rights guaranteed under the Constitution are subject to certain restrictions imposed under the Statute or other laws in force. Thus, rights conferred under the Constitution will not entitle a person to violate specific orders or other laws and conditions imposed by the state Governments for public order.

7. In this view of the matter, the relief sought for in this writ petition is unnecessary and the rights granted under the Constitution ought to be protected by all concerned and the competent authorities are equally liable and duty bound to protect the laws of the land.

8. Accordingly, this writ petition stands dismissed. Consequently, connected miscellaneous petitions are also closed. However, no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gmd/rkp

To

1.The Secretary to Government Of TamilNadu,
Transport Department,
Fort St, George,
Chennai-9.

2.The Regional Transport Officer,
RTO Office,
Pondy-Marakannam Road,
Jayapuram,
Tindivanam-604 002.

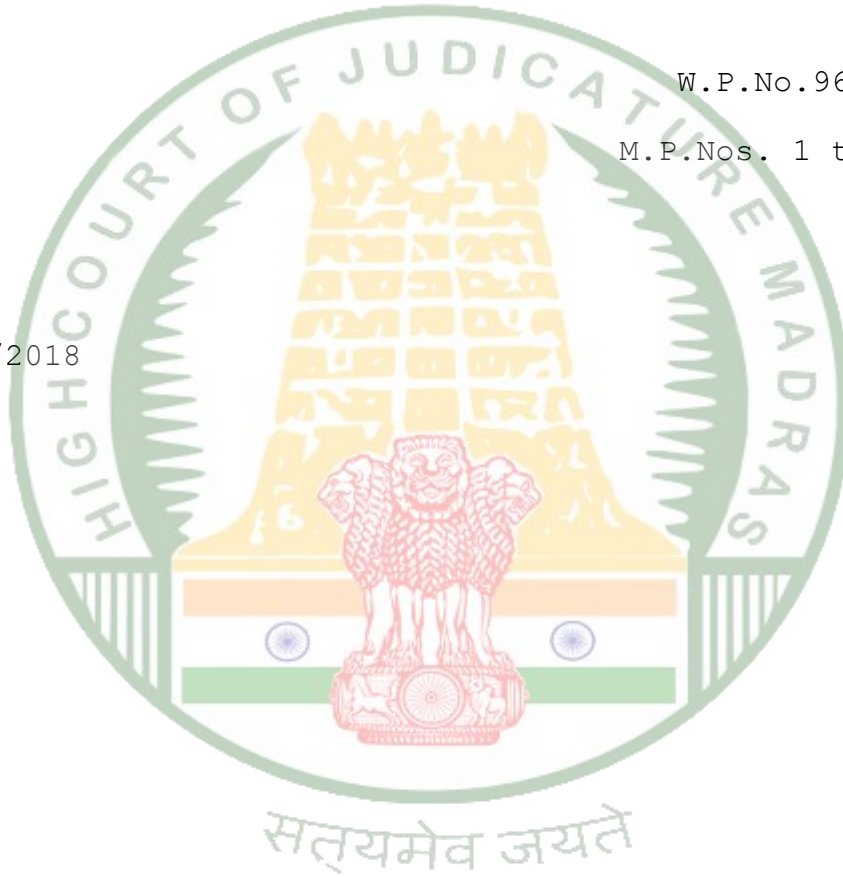
WEB COPY

3.The Brake Inspector,
RTO Office,
Pondy-Marakannam Road,
Jayapuram,
Tindivanam-604 002.

+1cc to the Government Pleader Sr.46612
+1cc to Mr.D.Ravichander, Advocate Sr.46089 [03/08/2018]

W.P.No.9610 of 2015
in
M.P.Nos. 1 to 3 of 2015

gj[col
srg 27/07/2018



WEB COPY