

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.7.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.17441 to 17445 of 2018
and W.M.P.No.20724 to 20728 of 2018

The Transport Commissioner
Ezhilagam Chepauk
Chennai 600 005

... Petitioner in all the W.Ps.

Vs.

- 1 The Secretary State Transport
Appellate Tribunal Chennai - 104
- 2 K.S.Rangasamy College of
Arts & Science Thokkavadi Post
Tiruchengode Taluk,
Nammakkal District ... Respondents in all the W.Ps.

Prayer in W.P.No.17441 of 2018:

Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records of the first Respondent in impugned order dated 26.07.2017 in M.V.Appeal No.54 /2017 and quash the same.

Prayer in W.P.No.17442 of 2018:

Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records of the first Respondent in impugned order dated 26.07.2017 in M.V.Appeal No.55/2017 and quash the same.

Prayer in W.P.No.17443 of 2018:

Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records of the first Respondent in impugned order dated 26.07.2017 in M.V.Appeal No.56/2017 and quash the same.

Prayer in W.P.No.17444 of 2018:

Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of

Certiorari to call for the records of the first Respondent in impugned order dated 26.07.2017 in M.V.Appeal No.57/2017 and quash the same.

Prayer in W.P.No.17445 of 2018:

Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records of the first Respondent in impugned order dated 26.07.2017 in M.V.Appeal No.62/2017 and quash the same.

For Petitioner in all W.Ps. : Mr.V.Jayaprakashnarayanan
Spl. Govt. Pleader

For Respondent No.2 : Mr.K.Harihararn
in all W.Ps.

COMMON ORDER

The parties in all the writ petitions are same and the question of law and facts involved in all the writ petitions are similar, these writ petitions are being disposed of by the common order.

2. Counsel appearing for the second respondent in whose favour the impugned order has been passed, raised the issue of maintainability of the writ petition stating that when the State Transport Appellate Tribunal, Chennai has passed the order against the order passed by the Transport Commissioner, the petitioner is bound to implement the order passed by the tribunal in M.V.Appeal No.54 of 2017, dated 26.7.2017. Taking support from the order passed by the Division Bench of this Court, dated 6.1.2009 in W.A.Nos.867 & 868 of 2007 [THE SECRETARY, REGIONAL TRANSPORT AUTHORITY, ERODE AND ANOTHER VS. K.S.SENTHILNATHAN] wherein the Hon'ble Division Bench of this Court taking into consideration of the earlier decision of this Court in AIR 1995 MAD 226 [REGIONAL TRANSPORT AUTHORITY VS. STATE TRANSPORT APPELLATE TRIBUNAL] dismissed the writ appeals making it clear that the Regional Transport Authority has to implement the order of the tribunal. The learned counsel for the second respondent also submitted that the petitioner has not even filed any appeal against the impugned order. Therefore, the petitioner has no locus standi or any legal right to challenge the same.

3 The relevant portion of the judgment cited supra is extracted hereunder:

"2..... The operative portions of the above said order are extracted

hereunder:

"4. The first issue to be considered is as to whether the Regional Transport Authority could maintain the writ petitions filed by him, as his personal right has not been affected. That apart, he being a subordinate statutory authority under the scheme of the Motor Vehicles Act, it has to be seen as to whether such writ petitions are maintainable.

5. this issue is no longer res-judicata and has been considered by the Hon'ble Division Bench of this Court in the case of The Secretary, Regional Transport Authority, Erode and another VS. K.S.Senthilnathan in Writ Appeal Nos.867 & 868 of 2007 vide judgment dated 6.1.2009 wherein the Hon'ble Division Bench after taking into consideration the earlier decisions of this Court in the cases of Regional Transport Authority Vs. State Transport Appellate Tribunal reported in AIR 1995 MAD 226 and The Regional Transport Authority, Namakkal Region vs. The State Transport Appellate Tribunal, Madras and 3 others reported in 1994 WLR 316, has dismissed the appeal of the Regional Transport officer.

6. In the light of the same, W.P.Nos.15859 and 15860 of 2013 are dismissed as not maintainable.

7. Consequently, there will be a direction to the Regional Transport Authority to implement the order of the Tribunal made in M.V. Appeal No.1 of 2013 dated 11.3.2013 within a period of six weeks from the date of receipt of a copy of this order.''

4 The learned Special Government Pleader appearing for the petitioner would submit that in the present case, the Transport Commissioner, Chennai having suffered the impugned order on the file of the State Transport Appellate Tribunal, Chennai, is still entitled to challenge the impugned order as State Government Officer.

5 This Court is unable to find any merit in the writ petition. The reason is that the Regional Transport Authority has challenged the order passed by the State Transport Appellate Tribunal. The Division Bench of this Court deprecating the practice of filing appeal by the Regional

Transport Authority instead of implementing the order passed by the tribunal held that the Regional Transport Authority cannot come to this Court challenging the tribunal's order. The same principle shall apply to the present writ petition.

6. Accordingly, all the writ petitions are dismissed as not maintainable. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS IX)

//True copy//

Sub Assistant Registrar

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To

The Secretary State Transport
Appellate Tribunal,
Chennai - 104.

+5cc to Mr.K.Hariharan, Advocate SR.No.52095, 52096, 95097,
52098 & 52099

+2cc to Government Pleader SR.No.52457 & 52458

W.P.No.17441 to 17445 of 2018
and W.M.P.No.20724 to 20728 of 2018

MR (CO)
GN(30/08/2018)

सत्यमेव जयते

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