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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23..08..2018

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.34302 of 2004

Tamilnadu State Transport

Corporation (Kumbakonam) Ltd.,

Rep. by its Managing Director,
Trichy.

.. Petitioner

-Versus-

1.State Transport Appellate Tribunal,
Chennai.

2.Regional Transport Authority,
Karur.

3.K.Kandasamy

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the 1st respondent pertaining to the Appeal No.1042/2003/A5 and to quash the order dated 23.04.2004 passed in A.No.1042/2003/A5 by the 1st respondent.

For Petitioner : Mrs.Kala Ramesh

For Respondents : Mrs.K.Bhuvaneswari,
AGP for R2

Mr.Hariharan for R3

R1 - Tribunal

ORDER

Challenging the order dated 23.04.2004 passed by the 1st respondent - State Transport Appellate Tribunal, Chennai, in A.No.1042 of 2003/A5 allowing the appeal and thereby setting aside the order dated 12.09.2003 passed by the Regional Transport Authority, Karur, in R.No.29284/A2/2003 and remitting the matter back to the 2nd respondent, the Tamil Nadu State Transport Corporation (Kumbakonam) Limited is before this court with this writ petition.



2. The facts, in brief, leading to the filing of this writ petition are as follows: The 3rd respondent is a mini bus permit holder. Originally, the Tamil Nadu Government, in the year 1997, had introduced a Mini Bus Scheme which permitted running of the mini bus for the benefit of the rural public living in remote villages on the unserved sector up to the route length not exceeding 16 kms., with an overlapping distance not exceeding 1 km on the route where stage carriages are operating. The 3rd respondent was issued with permit as per the Scheme, 1997. While so, by Government Order in G.M.Ms.NO.1475 dated 28.10.1998, the State permitted the mini bus operators to operate the mini buses for a distance not exceeding 4 kms in the approved area scheme (served sector) without altering the overall route length of 16 kms.

3. Subsequently, the State had introduced a new scheme in the year 1999, whereby the overall route length of the mini bus was increased to 20 kms, however, the overlapping distance not exceeding 4 km was retained by the State on the served sector. Earlier, the 3rd respondent had filed an application for renewal of his permit and the same was dismissed by the 2nd respondent on the ground that subsequent to the modification of the scheme in the year 1999, the 3rd respondent has not come forward to switch over to the new scheme by surrendering the existing mini bus permit issued under the old scheme in accordance with the approved modified scheme in G.O.Ms.No.1538 Home (Transport III) Department, dated 17.11.1999. Challenging the above said order, the 3rd respondent filed an appeal before the 1st respondent wherein the petitioner herein impleaded themselves as a party respondent and the 1st respondent after having considered the case, allowed the appeal filed by the 3rd respondent on the ground that switching over to the new scheme was only optional and the mini bus operators could not be compelled to switchover to the new scheme and also directed the 2nd respondent to survey the route and renew the permit if the served sector and unserved sector were within the prescribed limit. It is the said order now under challenge at the instance of the Tamil Nadu State Transport Corporation.

4. I have heard the learned counsel for the petitioner and the learned Additional Government Pleader for the 2nd respondent and the learned counsel for the 3rd respondent and also perused the records carefully.

5. The learned counsel for the petitioner would submit that after the new scheme came into effect in 1999, all the permit holder under the old Scheme 1997, should have necessarily switched over to the new scheme, but, the 3rd respondent has continued to operate mini bus under the old Scheme which was not permissible after the new scheme came into effect. According to



the petitioner, because of the failure on the part of the existing mini bus permit holders to switch over to the new scheme, the Corporation has been facing huge revenue loss.

6. Per contra, the learned counsel for the 3rd respondent would contend that the petitioner is not a person aggrieved by the order passed by the 1st respondent. The 3rd respondent is operating his mini bus under 1999 scheme and the same would not in any way cause revenue loss to the petitioner corporation. As a matter of fact, the petitioner is benefited by the same because as per the old scheme mini buses are operated within 1 km in the served sector and as per the new scheme, 1999, they are permitted to operate mini buses with an overlapping distance of 4 km which would only affect the interest of the petitioner corporation. Further, according to him, there is absolutely no mention in the affidavit filed in support of the writ petition as to how the State Corporation are affected on account of the operation of mini bus by the 3rd respondent.

7. The learned counsel for the 3rd respondent would further contend that subsequently the permit issued to the 3rd respondent has been renewed periodically under the old scheme. Further, according to him, in supersession of the Scheme, 1999, another new scheme has been introduced by the State and on account of this reason also, the writ petition is not maintainable and the same is liable to be dismissed.

8. I have considered the rival submissions carefully.

9. As rightly pointed out by the learned counsel for the 3rd respondent, the petitioner Corporation cannot be said to be aggrieved by the order of the 1st respondent impugned in this writ petition. The main grievance of the petitioner Corporation is that the petitioner corporation has been facing severe loss of revenue due to non following of the scheme, 1999 by the mini bus operators like the 3rd respondent. This court failed to understand as to how this contention is acceptable. As per the old scheme, the 3rd respondent has been operating mini bus with an overlapping distance of not exceeding 1 km on the served sector. Whereas under the new scheme, the petitioner has been permitted to operate mini bus with an overlapping distance of not exceeding 4 km on the served sector where the petitioner corporation operates. When such being the position, in the considered opinion of this court, it would not cause any revenue loss to the petitioner corporation. Further, the contention of the petitioner Corporation that the revenue of the corporation has been seriously affected on account of non operation of mini bus by the 3rd respondent upto 20 kms on the unserved sector as stipulated under the new scheme. If at all, the 3rd respondent does not operate the mini bus up to length of 20 kms on unserved



sector, it is for the State Government to take appropriate action. It is not for the State Transport Corporation to raise such objection. At this juncture, it has been brought to the notice of this court that subsequently, permit granted to the 3rd respondent got renewed periodically and in the year 2011 another new scheme also came into effect by which 1999 Scheme got superseded. In the above circumstances, this court find no illegality or irregularity in the order passed by the 1st respondent. Thus, this court does not find any merit in the writ petition and the same deserves only to be dismissed.

10. In the result, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The State Transport Appellate Tribunal, Chennai.
- 2.The Regional Transport Authority, Karur.
- 3.The Managing Director, Tamilnadu State Transport Corporation (Kumbakonam) Ltd., Trichy.3.

- + 1 cc to Mr.K. Hariharn, Advocate Sr.57724
- + 1 cc to M/s. Kala Ramesh, Advocate Sr.57758
- + 1 cc to the Government Pleader Sr.58399

W.P.No.34302 of 2004

AK(CO)
EU(05/12/2018)