

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01..10..2018

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

WRIT PETITION NO.25210 OF 2018

AND

W.M.P.NO.29308 OF 2018

1. The Principal Secretary/
The Transport Commissioner,
Chepauk, Chennai 600005.
2. The Regional Transport Officer,
Chidambaram.

... Petitioners

-Versus-

1. The Secretary,
State Transport Appellate Tribunal,
Chennai 600104.
2. M/s.MRK Institute of Technology,
Kattumannarkoil 608301,
Cuddalore District.

... 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 in M.V. Appeal No.84 of 2017 dated 30.11.2017 and to quash the same.

For Petitioners : Mr.A.N.Thambidurai,
Spl. Govt. Pleader

For Respondents : Mrs.Radha Gopalan,
Standing Counsel for R1

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ORDER

Challenging the order passed by the State Transport Appellate Tribunal, Chennai, in M.V. Appeal No.84 of 2017 dated 30.11.2017, the State is before this court with the present writ petition.

2. The grievance of the petitioners is that the 2nd respondent is an educational institution, which runs an

Engineering College and its management operates their own buses to take care of commutation of students. Earlier, the respondent institution had applied for extension of permit to other Districts and the same was rejected by the State Transport Authority cum Joint Transport Commissioner, Chennai. Challenging the same, the 2nd respondent preferred an appeal before the State Transport Appellate Tribunal [in short, the 'Appellate Tribunal'] and the same was allowed on 30.11.2017 and the order of the Transport Commissioner was set aside. Challenging the same, the State is before this court with the instant writ petition.

3. Heard both sides and also perused the available records carefully.

4. After the order passed by the State Transport Appellate Tribunal dated 30.11.2017 allowing the Appeal filed by the 2nd respondent, since the authorities did not pass any orders granting permit, the respondent 2nd institution filed a writ petition in W.P.Nos.3760 of 2018 seeking a direction to the STA cum Joint Transport Commissioner (R) to implement the common judgment of the Appellate Tribunal dated 30.11.2017 made in M.V. Appeal No.84/2017 and 85/2017. This court, on 28.02.2018, after having recorded the submission made by the learned Special Government Pleader that the authorities are not going to prefer any appeal as against the order of the Appellate Tribunal, disposed the writ petition with a direction to the second respondent to implement the order passed by the Appellate Tribunal dated 30.11.2017 in M.V. Appeal No.84/2017 and 85/2017, within a period of two weeks from the date of receipt of a copy of the order and the relevant portion of the order of this court reads as follows:-

"3. The grievance of the petitioners is that even though the State Transport Appellate Tribunal allowed the appeal filed by the petitioners on 30.11.2017 and directed the Principal Secretary, Transport Commissioner to consider the applications of the petitioners afresh and grant endorsement of extension of the validity of permit within a period of four weeks from the date of receipt of a copy of that judgment, the second respondent has not passed any order so far, in compliance with the order passed by the Tribunal.

4. When the matter was taken up on 20.02.2018 for admission, the learned Special Government Pleader sought time to get instructions, as to whether the order passed by the State Transport Appellate

Tribunal has become final or not.

5. Accordingly, the matter is listed today for further hearing. Today, the learned Special Government Pleader, based on instructions, submitted that no appeal is filed against the said order of the Tribunal and therefore, the second respondent will implement the order, without loss of further time. Accordingly, these writ petitions are disposed of, only with a direction to the second respondent to implement the order passed by the State Transport Appellate Tribunal dated 30.11.2017 in M.V.Appeal No.84/2017 and 85/2017, within a period of two weeks from the date of receipt of a copy of this order."

Now, without complying the directions of this court to implement the order of the Appellate Tribunal, the State has come up with the instant writ petition.

5. When the Transport authorities had given an undertaking that they are not preferring any appeal as against the order of the Appellate Tribunal and they would comply with the order of the Appellate Tribunal without any loss of time, they must have complied with the order of the Appellate Tribunal, at least, within a reasonable time. But, the authorities did not do so despite the direction of this court to implement the order within a period of two weeks.

6. At this juncture, it is pertinent to note that already the respondent institution has initiated a contempt proceedings against the authorities for not complying with the order of this court dated 28.02.2018 in W.P.No.3760 of 2018. Even thereafter, the authorities did not choose to comply with the order of this court and the contempt petition filed by the 2nd respondent has been pending. While so, the State has come up with the present writ petition challenging the order of the Appellate Tribunal. When the authorities had given an undertaking before this court that they would not go for an appeal and they would comply with the order of the Appellate Tribunal, being public authority, the authorities are bound to abide by such undertaking and implement the order of the State Appellate Tribunal, instead they have come up with the present writ petition. It is nothing but an abuse of process of court.

7. On merits also, the learned Special Government Pleader is unable to convince this court. The State Appellate Tribunal, after having considered the relevant provisions of The Motor Vehicles Act and the Motor Vehicles Rules and judgement of this

court in W.P.No.20189 of 2014 has passed a detailed order wherein it has been held that the transport authorities are bound to follow the procedures contemplated under sub-rules (a) and (b) to Rule 152 of the Tamil Nadu Motor Vehicle Rules and this court do not find any illegality or irregularity warranting interference. Thus, the instant writ petition deserves only to be dismissed.

8. In the result, the writ petition is dismissed. However, having regard to the facts and circumstances of the case, there will be no order as to costs. Consequently, connected WMP is closed. The respondents are directed to implement the order of this court dated 28.02.2018 made in W.P.No.3760 of 2018 within a period of four weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kmk

To

1. The Principal Secretary/The Transport Commissioner, Chepauk, Chennai 600005.
2. The Regional Transport Officer, Chidambaram.
3. The Secretary, State Transport Appellate Tribunal, Chennai 600104.

+1cc to Mrs.Radha Gopalan, Advocate, S.R.No.68330

+1cc to the Government Pleader, S.R.No.68573

W.P.No.25210 of 2018

CS/25/10/2018

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