



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WEB COPY

W.P(MD)No.7230 of 2018
and
W.M.P(MD)No.6944 of 2018

Dr.A.Sivagurunathan

... Petitioner

Vs.

1.The Regional Transport Authority/
The District Collector,
Madurai District,
Madurai.

2.The Secretary,
Regional Transport Authority,
Madurai (North),
Madurai.

3.The Regional Transport Officer,
Madurai North,
K.Pudhur,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus to direct the respondents to subject the petitioner's vehicle for periodical full check-up (FC) and to renew the petitioner's medium goods (closed type vehicle) vehicle bearing Registration No.TN-59-BH-4035 and continue the petitioner's vehicle as commercial advertisement vehicle in the light of the petitioner's representation dated 19.01.2018.

For Petitioner

: Mr.S.Krishnan

For Respondents

: Mrs.J.Padmavathi Devi

Special Government Pleader

ORDER

The petitioner purchased a Medium Goods Vehicle with a closed body type bearing Registration No.TN-59-BH-4035. Thereafter, he had divided the vehicle into three compartments for the purpose of running a 'Mobile Clinic' and to advertise through LED screen. On the basis of the application given by the petitioner, the third respondent, vide proceedings in Se.Mu.Aa.No.66740/E1/2015, dated 09.10.2015, permitted him to use an advertisement board in his vehicle.



2. Thereafter, the petitioner had submitted a representation dated 19.09.2016, complaining that permission is not accorded to him for fixing the LED screen. He had also filed a writ petition in W.P (MD)No.9955 of 2017 for consideration of his representation dated 19.09.2016. This Court, by its order dated 25.05.2017, directed the first respondent - Regional Transport Authority/District Collector to consider his representation.

3. However, the first respondent - Regional Transport Authority/District Collector has conducted a personal hearing on 06.07.2016 and cancelled the Permit for making irregular alterations in the vehicle, against which, an appeal in M.V.App.No.96 of 2017 was filed and an order of stay was granted in I.A.No.75 of 2017 by the State Transport Appellate Tribunal, Chennai. While the appeal is pending, the petitioner has filed another representation dated 19.01.2018, to grant permission to fix LED screen. However, in the present writ petition, a direction is sought for to conduct inspection to issue Fitness Certificate and renew the Permit in the light of his representation dated 19.01.2018.

4. The learned Counsel for the petitioner would submit that when the order of stay granted in the appeal by the State Transport Appellate Tribunal is in operation, the cancellation of Permit and refusal to conduct inspection for issuing Fitness Certificate, are illegal.

5. Controverting the submissions made by the learned Counsel for the petitioner, the learned Special Government Pleader appearing for the respondents would submit that the petitioner made an application seeking permission for fixing the advertisement board which was permitted by order dated 09.10.2015, but on an inspection conducted by the Motor Vehicle Inspector - Grade I, it was found that the vehicle was divided into three portions and alterations were made without getting any permission. As per Section 52 of the Motor Vehicles Act, 1988, alteration to the vehicle shall be made only after obtaining permission from the competent authority. The petitioner has not obtained any permission. Hence, based on the report of the Motor Vehicle Inspector - Grade I, the first respondent - Regional Transport Authority/District Collector cancelled the Permit. Therefore, the petitioner is not entitled to Fitness Certificate to the vehicle in violation of the statute.

6. Heard both sides.

7. From the perusal of the records available before this Court, I do not find any application submitted under Section 52 of the Motor Vehicles Act, 1988, for alteration of the structure of the vehicle. On the other hand, a representation made by the petitioner that his request was not considered by the authorities, is only available and further representation dated 19.01.2018 is also in the same lines. But, from the perusal of the Registration Certificate, it could be seen that it is a closed type Medium Goods Vehicle,



having specifications of 'unladen weight, seating capacity, wheel-base, cubic capacity and axle weight'.

8. From the inspection report, the Regional Transport Authority noted that the stairs of the vehicle are extended beyond 3.4 metres. The photographs produced by the petitioner would also show that the LED screen is elevated above the roof of the vehicle to a considerable height.

9. It is also important to note that in respect of Government vehicles belonging to Information and Broadcasting Department, permission was granted.

10. Even though the learned Counsel for the petitioner raised all these points, there is nothing on record to show that his request was presented before the competent authority for getting alterations in accordance with law. The interim order passed by the Appellate Authority is subject to the condition of road worthiness of the said vehicle, production of Fitness Certificate, Certificate of Registration together with current Insurance Certificate and current tax licence and also payment of any dues, due to the Government.

11. In fine, the cancellation of Permit alone is stayed and it will not entitle the petitioner to get a Fitness Certificate. In that event, the prayer sought for in the writ petition cannot be granted. However, it is made clear that it is open to the petitioner to file an application under Section 52 of the Motor Vehicles Act, 1988, specifically mentioning the alterations and permission sought for by him, to the authorities concerned and by producing the vehicle in question for inspection. The authorities concerned, on receipt of such application, shall consider the same as per the norms prescribed under Section 52 of the Motor Vehicles Act, 1988 and also in accordance with the other relevant rules and pass orders on his application within a period of two months thereafter.

12. Accordingly, this writ petition is disposed of as above. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Regional Transport Authority/
The District Collector,
Madurai District,
Madurai.



2.The Secretary,
Regional Transport Authority,
Madurai (North),
Madurai.

3.The Regional Transport Officer,
Madurai North,
K.Pudhur,
Madurai.

+1cc to Special Government Pleader, SR.No. 60476

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09.04.2018

rsb
JM/KK/SAR 3/26.04.2018/4P/5C