



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2018

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THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD)No.22699 to 22701 of 2015

and

M.P.(MD)No.1,1 and 1 of 2015

&

W.M.P.(MD)Nos.4158,4215,4216,5227 to 5229 of 2017 &

W.M.P.(MD)Nos.1194 to 1196 of 2018

A.Senthilvel ... Petitioner in W.P.(MD)No.22699 of 2015
G.Gangatharan ... Petitioner in W.P.(MD)No.22700 of 2015
Thanga Nadachi ... Petitioner in W.P.(MD)No.22701 of 2015

-Vs-

- 1.The Regional Transport Authority,
Nagercoil,
Kanyakumari District.
- 2.The State Transport Appellate Tribunal,
City Civil Court Buildings,
High Court Campus,
Chennai-104.
- 3.The Management through the General Manager,
Tamil Nadu State Transport Corporation,
Tirunelveli Ltd.,
Nagercoil Region, Ranithottam,
Kanyakumari District. ...Respondents (in all W.P.s)

[R-3 is impleaded vide Court order dated 05.01.2016 in W.M.P.(MD) Nos.70, 71 and 68 of 2016.]

Common Prayer: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 03.11.2015 of the second respondent made in Appeal Nos.58, 60 and 62 of 2015 and quash the same as being illegal, unreasonable and unconstitutional and consequently direct the first respondent to permit the petitioner's mini bus to make use of Anna Bus stand, Nagercoil for alighting the passengers while operating the mini bus on the route.



For Petitioner : Mr.C.K.Chandrasekaran
For R-1 : Mr.K.Chellapandian
Additional Advocate General
Assisted by
Mrs.J.Padmavathi Devi
Special Government Pleader
For R-3 : Mr.K.Sathyasingh
R-2- Tribunal
(in all W.P.s)

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COMMON ORDER

In W.P.(MD)No.22699 of 2018, the petitioner is a Mini Bus Operator permitted to operate the Mini Buses bearing Registration No.TN57N 0171, TN 51A-0729 between Nagercoil Government Hospital to Osaravilai kalivilai via Pathinattampadi Junction, Parakai Mela Theru, Parakai Kakkanputhur Junction, Kadatti Privu, Thengamputhur Junction, Panikudieruppu Junction, Osaravilai Kalivilai. The petitioner was issued with Mini Bus permit, for 3.8 kms in the served sector and 7.7 kms in the unserved sector from Government Hospital to Osaravilai Kalivilai in the route permit. Permitted route is a two way. There is an one way restriction near Narayana Guru Mandapam (Kottam) and Kottar Government Hospital and therefore, the petitioner has to take a circuitous route via Beach Road, Hindu College, Chettikulam Junction, Veppamoodu and Anna bus stand to reach the Government Hospital.

In W.P.(MD)No.22700 of 2018, the petitioner is a Mini Bus Operator permitted to operate the Mini Bus bearing Registration No.TN21U0837 between Kottar Railway Vilaku to Thengam Puthoor via Eathamozhy Vilaku, Parakkai Vilaku, Abdul Kadhar Hospital, South Kannam Kulam Bus Stop, Parakkai V.A.O. Office, Kakkanputhoor Vilaku, Kaduvetty Thiruppu. The petitioner was issued with Mini Bus permit, for 4 kms in the served sector and 3.8 kms in the unserved sector from Kottar Railway Vilaku to Thengam Puthoor in the route permit. There is an one way restriction near Narayana Guru Mandapam (Kottam) and Kottar Railway Vilaku and therefore, the petitioner has to take a circuitous route via Beach Road, Hindu College, Veppamoodu, Anna bus stand and Government Hospital to reach the Kottar Railway Vilaku.

In W.P.(MD)No.22701 of 2018, the petitioner is a Mini Bus Operator permitted to operate the Mini Bus bearing Registration No.TN77E7725 between Kottar Railway Vilaku to Suchindram via Eathamozhy Vilaku, Parakkai Vilaku, Abdul Kadhar Hospital, South KannanKulam Bus Stop, Parakkai Chhatunavukudam, Kasiviswanatha Nagar Vadakku Thery, Kakanoor, Suchindram South Car Street. The petitioner was issued with Mini Bus permit, for 3.9 kms in the served sector and 2.5 kms in the unserved sector from Kottar Railway Station Vilaku to Suchidram. Permitted route is a two way. There is an one way restriction near Narayana Guru Mandapam (Kottam) and Kottar Railway Station and therefore, the petitioner has to take a circuitous route via Beach Road, Hindu College, Chettikulam



Junction, Veppamoodu, Anna bus stand, Kottar Government Hospital to reach the Kottar Railway Vilaku.

2.The petitioners filed petitions before the Regional Transport Authority requesting them to permit their Mini Buses to go into Anna Bus stand, while operating from their respective origin point to terminal point. The Regional Transport Authority rejected the said request stating that if extension of permit is granted, it will violate the route permit granted under the Scheme i.e beyond 4 kms. Against which, the petitioners preferred appeals before the Tamil Nadu State Transport Appellate Tribunal in M.V.Appeal Nos.58, 60 and 62 of 2015. The Transport Appellate Tribunal, by its order dated 03.11.2015, rejected the request of the petitioners and confirmed the order of the Regional Transport Authority. Aggrieved over the same, the petitioners are before this Court.

3.According to the petitioners, the order passed by the first respondent/Regional Transport Authority is a non speaking order and does not set out any reason for rejection. Secondly, the observation made by the first respondent to the effect that if extension of permit is granted, it will violate the route permit granted under the Scheme i.e beyond 4 kms, cannot be accepted. Because of the subsequent developments, the petitioners were compelled to operate their mini buses in the circuitous route. Therefore, it cannot be said that they are plying the vehicles beyond the statutory limit of 4 kms. On the route from Narayana Guru Mandapam to Government Hospital/Kottar Railway Vilaku/Kottar Railway Station, the Mini buses have to cross Anna bus stand. In such circumstances, the petitioners can very well be permitted to go into the Anna Bus stand and it will not amount to extension of route. Therefore, the order passed by the Appellate Tribunal is erroneous.

4.The learned counsel appearing for the petitioners would also rely on the judgment of the Kerala High Court reported in AIR 1989 KERALA 271, in the case of Chokli Moideenkutty vs. The State Transport Appellate Tribunal, Ernakulam, and others held that the direction in his alternative route will not amount to variation of the notified route. The distance between the origin and destination point shall be measured, as per the route permit granted by the Regional Transport Authority and not to be measured as per the alternative route brought out by the Traffic Regulations.

5.He further submitted that the contention of the petitioners to the effect that in future, if there is any modification in traffic regulations, then, the petitioners will be operating their Mini Buses only at the distance of 4 kms and not beyond that, was not taken into consideration by the respondents 1 & 2. In these circumstances, the learned counsel relies on the letter written by the Transport Department in Letter R.No.90199/E2/2000 dated 29.11.2000, wherein instructions were given as under:

" Mini buses may be permitted to go inside the



bus stands so that the benefit of the scheme reaches the villagers in full subject to the condition that the over lapping distance of 4 kms should not exceed in the served sector."

Therefore, it is also the contention of the learned counsel appearing for the petitioners that the petitioners are entitled to go into Anna Bus stand, which enroutes their destination.

6. Controverting the contention of the learned counsel appearing for the petitioners, the learned Additional Advocate General appearing for the first respondent would contend that route permit was granted only upto 4 kms in the served sector, whereas the petitioners would operate their vehicles beyond the permitted limit. Therefore, the Regional Transport Authority is right in rejecting the request of the petitioners. He would also rely on the judgment of this Division Bench of this Court in W.A.No.582 of 2008 dated 14.07.2008 in the case of Regional Transport Authority, Dharmapuri and another Vs. Banumathy Vijayan.

7. Heard the rival submissions.

8. Admittedly, in W.P(MD).No.22699/2018, the route permit granted to the petitioner between the Government Hospital to Osaravilai Kalivilai covers the distance of 3.8 kms in the served sector and 7.7 kms in the unserved sector. In W.P(MD).No.22700/2018, the route permit granted to the petitioner between Kottar Railway Vilaku to Thengam Puthoor covers the distance of 4 kms in the served sector and 3.8 kms in the unserved sector. In W.P(MD).No.22701/2018, the route permit granted to the petitioner between Kottar Railway Station Vilaku to Suchindram covers the distance of 3.9 kms in the served sector and 2.5 kms in the unserved sector. After the grant of route permit, on 12.10.2013, the Regional Transport Authority introduced one way traffic system in Nagercoil. The Regional Transport Authority also permitted Mini Bus Operators to operate their vehicles through an alternative route directed by the Traffic Police via Anna Bus stand with a condition that they shall not stop in front of the Anna Bus stand, as it will cause traffic congestion on the one way traffic route.

9. It is useful to refer to Rule 245 of the Tamil Nadu Motor Vehicle Rules. The said Rule prescribes that there shall be a provision of public stand for public service vehicles. As per Rule 245 (a), the local authority shall make an application to the Regional Transport Authority for the purpose of providing public stand for public service vehicles. As per Rule 245 (j), the person employed at the stand maintained by the local authority, shall be responsible for maintaining the stand in a serviceable, clean and sanitary condition. Therefore, it can be inferred that it is incumbent on the local authority and the Regional Transport Authority to maintain the facilities to the commuters for the purpose of making a particular place for stopping the vehicles.



10. The entire object of the scheme is for operating Mini Buses for the welfare of the poor people, who are living in the remote villages. That is why, a required condition is imposed for operating the Mini Buses in the unserved sector to a maximum distance of 16 kms. By that, the poor people, who are without bus facilities or any other transport facilities can reach urban areas, from where they get connectivities to long distance by train, bus and other modes and also to reach educational and other institutions, Government offices and commercial establishments. Considering the necessity of plying the vehicles within the urban areas, where transport service is already available, Government granted route permit in the served sector upto a distance of 4 kms. In view of the said object, the transport Corporations operate their buses only for the purpose of serving the poor people from the unserved sector and it cannot be construed to be on the basis of business prospects.

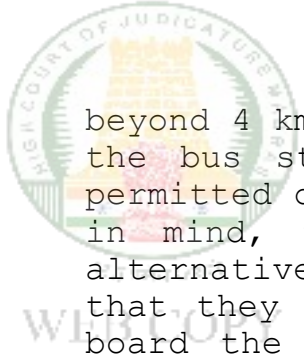
11. In the instant case, the issues involved in the writ petitions are:

“i) Whether the Mini Buses can be permitted to go into the bus stand or not?

ii) Whether the variation of the route will violate any regulation imposed in the scheme?”

12. A very reading of the circular issued by the Regional Transport Department dated 29.11.2000 by itself shows that in order to achieve the benefit of the scheme and fulfil the requirements of the villagers, it is advisable to permit the Mini Buses to go into the Bus stand, if the overlapping distance of 4 kms is not exceeded in the served sector. From the letter, it can be noted that the views of the Government itself is that permitting the Mini Buses into the Bus stand will only amplify the object of the Scheme to serve the poor villagers and it is not detrimental to the object of the scheme.

13. Admittedly, as per the Scheme, Mini Buses can ply upto 4 kms in the served sector. A route permit accordingly can be granted only upto a distance of 4 kms in the served sector and 16 kms in the unserved sector. In the instant case, after the grant of permit and during its validity, subsequent modifications were made by the Traffic Police, in which certain distance covered in the served sector has been declared as one way. The first respondent has directed the Mini Buses to operate in the circuitous route specified by them, as per traffic regulations, imposed by the State Transport Commissioner. The variation in the traffic arrangement will not alter the route permit granted to the Mini Buses. The buses are to reach the destination through the alternative route, as directed by the licensing authority. It is only a subsequent development in order to provide free flow of vehicles to avoid traffic congestion and thereby to avoid hardship caused to the residents of the area. The reasoning given by the respondents is that the Mini buses run



beyond 4 kms in the served sector and if they are permitted to enter the bus stand, it will amount to extension of route beyond the permitted distance of 4 kms restricted by the Scheme. With this view in mind, while issuing a direction to ply the vehicles in an alternative route, the Transport authority also imposed a condition that they shall not stop in front of Anna Bus Stand to alight or board the passengers as it is in excess of 4 kms in the served sector. The subsequent arrangement cannot be considered as an extension beyond the permitted distance of 4 kms in the served sector. If, in future, a decision is taken to restore the original route, the distance covered in the served sector will be as per the scheme, i.e, within 4 kms. The object of serving the commuters and their convenience is the predominant consideration, which is totally lost sight of. Another reason adduced is that in order to avoid traffic congestion, the vehicles are not permitted to stop on the congested road. This is all the more a valid reason to permit the buses to enter the bus stand to avoid congestion on the busy road. Section 245 of the Act, has been incorporated to achieve the very object. The authorities shall regulate the vehicle operators with a view to provide effective services without causing hardship to the commuters. Therefore, the petitioners' request to go into Anna Bus Stand is only to help the commuters to board and alight the Mini Buses. In the considered opinion of this Court, the request appears to be reasonable and will serve the object of the scheme framed by the Government. On the other hand, the rejection of the request on the ground that the other permit holders, who are competitors in business object the same is not sustainable. Whenever a transport operator, who wants to develop their business prospects must provide better and quality service. It cannot be achieved by preventing or destroying the competitors. More so, it applies to the State Transport Corporation run by the Government, whose primary object is to provide effective and economical service to the people. It cannot go contrary to the object of the scheme.

14. In such an event, this Court is of the view that in order to serve the poor commuters, particularly villagers, old aged, disabled, pregnant and illiterate more effectively, it is better to permit the Mini Buses to enter the Bus stand. But, at the same time, it has to be borne in mind that the complaints of the hindrances caused by the Mini Buses. If a complaint is made by a driver of a Transport Corporation, traffic police on anyone that the Mini Bus operators are parking their vehicles in a haphazard manner obstructing the traffic, preventing free flow of the vehicles, particularly, the transport Corporation vehicles, stringent action shall be taken by the respondents, which may extend to the extent of refusal to renew the permit also. Instead of regulating the operation of Mini Buses, preventing them to enter into the Bus Stand will cause disservice to the commuters.

15. In a similar circumstance, a Division Bench of the Kerala High Court in Chokli Moideenkutty case [referred supra] held as under:



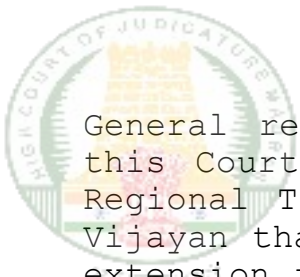
the R.T.A. on 23rd Feb., 1985. That is the date that should be taken into account for measuring the distance though the notification inviting applications was published in the gazette on the 23rd January, 1986. As there is dispute in regard to the actual distance of the notified route as on 23-1-1985, the matter has to be remitted to the R.T.A. to examine this limited aspect and to arrive at a fresh decision. It has to take a decision taking into account 23-2-1985 as the relevant date for measuring the distance. If as a consequence of such consideration, the R.T.A. comes to the conclusion that the route notified was a short route, it shall proceed to consider the preference to which the appellant as a new entrant would be entitled to under Rule 177A(3) of the rules. If, however, it comes to the conclusion that the route is a medium route, it shall dispose of the applications in accordance with law.

For the reasons, stated above this writ appeal is allowed and the judgment of the learned single Judge and the orders of the Regional Transport Authority and State Transport Appellate Tribunal are set aside and the case is remitted back to the R.T.A. for fresh disposal in the light of the observations made above. Till fresh disposal by the R.T.A. is in pursuance of the directions contained in this judgment, the appellant shall be permitted to continue to operate on a temporary basis. As the matter has been pending for a long time, we consider it appropriate to direct the R.T.A. to dispose of the entire matter as expeditiously as possible and preferably within a period of three months from the date of receipt of this judgment."

16. In view of the above judgment, it is clear that the Traffic Regulations imposed by the Traffic Police and the alternative route permitted by the first respondent will not amount to variation of the notified route or permitted route. The route shall be measured, as per the actual permit and not on the basis of the subsequent developments. So far as the observations of the State Transport Appellate Tribunal is concerned, it is not based on the scientific rationale and without consideration of the petitioners' request. Since the mini buses are operated for the purpose of providing transport facilities to the remote villages and the places, where there is lack of transport facilities, effective services can be rendered by permitting them to enter into Bus stands on their route and it will not amount to any violation of the scheme.

<https://hcservices.ecourts.gov.in/hcservices/>

17. The contention of the learned Additional Advocate



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General relying on the judgment of the Hon'ble Division Bench of this Court in W.A.No.582 of 2008 dated 14.07.2018 in the case of Regional Transport Authority, Dharmapuri and another Vs. Banumathy Vijayan that the Courts cannot extend the route permit or grant any extension in overlapping the served sector is not applicable to this case.

18.In the instant cases, it is not the request of the petitioners to extend the route permit beyond 4 kms. If the route permit granted is only 4 kms and because of the subsequent development, it is diverted in the alternative route, the question of granting extension of the distance does not arise in this case. Therefore, for the reasons discussed above, the order passed by the State Transport Appellate Tribunal is liable to be set aside.

19.In the result, the Writ Petitions are allowed and the orders passed by the State Transport Appellate Tribunal, dated 03.11.2015, in M.V.Appeal Nos.58, 60 and 62 of 2015 are set aside. Further, a direction is issued to the first respondent to permit the mini bus operators to enter the Bus Stand in the present case, Anna Bus Stand, which falls within the alternative route, provided by the Transport Authorities. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1.The Regional Transport Authority,
Nagercoil,
Kanyakumari District.

2.The State Transport Appellate Tribunal,
City Civil Court Buildings,
High Court Campus,
Chennai-104.

+3CCs TO MR.C.K.CHANDRASEKAR, ADVOCATE IN S.R.NO.73224,73225,73226.

SM/VS/TK

DS RSK SAR-4 04.10.2018 9P/6C

Common Order made in
W.P. (MD) No.22699 to 22701 of 2015
16.07.2018