



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2018

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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W.P(MD)Nos.15522, 18067 and 18068 of 2018

S.P.Ramalakshmi

..Petitioner in
W.P.(MD).No.15522/2018

K.Selvan

..Petitioner in
W.P.(MD).No.18067/2018

K.Jayasankar

..Petitioner in
W.P.(MD).No.18068/2018

Vs.

1.The Regional Transport Authority,
Office of the Regional Transport Authority,
Tirunelveli District.

2.The Regional Transport Officer,
Thenkasi,
Tirunelveli District.

..Respondents in
all these petitions.

PRAYER in W.P.(MD).No.15522 of 2018:

Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 1st respondent vide his proceedings in Pro.No.32675/A1/2017, dated 29.06.2018 and quash the same as illegal and consequently direct the 1st respondent to grant the Mini Bus permit to the petitioner on the route, Thenkasi Thomson School, Sakkadai Palam to Agarakattu Bus stop as per the modified area approved scheme in G.O.(Ms).No.1548, dated 17.11.1999.

PRAYER in W.P.(MD).No.18067 of 2018:

Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 1st respondent, vide his proceedings in Pro.No.30068/A1/2017, dated 29.06.2018 and quash the same as



illegal and consequently direct the 1st respondent to grant the two Mini Buses permits to the petitioner on the route Ambasamuthiram Bus Stand to Vikramasingapuram, Amali School (Ambalavanapuram Periyatheru Radio Nilayam), as per the modified area approved scheme in G.O.(Ms).No.1548, Home (Transport -III) dated 17.11.1999.

PRAYER in W.P. (MD) .No.18068 of 2018:

Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 1st respondent, vide his proceedings in Pro.No.30069/A1/2017, dated 29.06.2018 and quash the same as illegal and consequently direct the 1st respondent to grant the two Mini Buses permits to the petitioner on the route Papanasam Senaithalaivar Bus Stop to Kalsundu Colony as per the modified area approved scheme in G.O.(Ms).No.1548, Home (Transport -III) dated 17.11.1999.

For petitioner in all
the petitions : Mr.A.C.Asaithambi

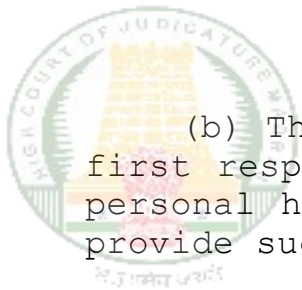
For respondents in
all the petitions : Mr.R.Murugan,
Additional Government Pleader

COMMON ORDER

These writ petitions have been filed by the petitioners challenging the orders rejecting the applications of the petitioners for grant of Mini Bus permit on the modified route.

2. Though very many contentions have been raised by the petitioner, the main ground on which the learned counsel for the petitioners sought to quash the impugned orders are that:

(a) The State Government has introduced a New Comprehensive Scheme, 2011, modifying the Approved Modified Area Scheme, 1999, under the Tamil Nadu Motor Vehicles Act, in G.O.Ms.No.136, Home (Transport - III), dated 23.02.2011. Based on the New Comprehensive Scheme, 2011, the first respondent has passed the impugned orders. But, the said New Comprehensive Scheme, 2011 itself ie. G.O.Ms.No.136 itself, was set aside by this Court, vide order dated 18.04.2018 in W.P.(MD).No.2893 of 2011, before passing the impugned orders and therefore, the impugned orders passed by the first respondent rejecting the claim of the petitioners under the New Comprehensive Scheme, 2011 cannot be sustained and that as the petitioners application for permit has been pending before the initiation of the New Comprehensive Scheme, 2011, this Court may direct the first respondent to consider the applications of the petitioners under the old scheme.



(b) Though the State Transport Appellate Tribunal directed the first respondent to pass orders after providing an opportunity of personal hearing to the petitioners, the first respondent did not provide such opportunity before passing the impugned orders.

3. According to the respondents, the applications of the petitioners did not satisfy the conditions laid down either in the old scheme or in the New Comprehensive Scheme, 2011. The State Transport Appellate Tribunal has directed the first respondent to consider the applications of the petitioners afresh in accordance with the New Comprehensive Scheme, 2011 and more particularly keeping the following two points ie., (i) If the present route of the appellant applied for is identified and similar to that of the route proposed to be identified by the Regional Transport Authority, Tirunelveli as per New Scheme, 2011 in future; and (ii) In the event of the appellant qualifies himself to all the eligible criteria under the New Scheme, 2011. As per the direction of the Tribunal, the applications of the petitioners were considered and rejected as it is not feasible. Thus, they prayed to dismiss these writ petitions.

4. Heard the learned counsel appearing for both sides and perused the records carefully.

5. It is seen from the record that the petitioners have been fighting for a long time for getting permission for Mini Bus operation. Though the first respondent has considered the applications of the petitioners under the New Scheme, 2011, as per the direction of the Tribunal and rejected the same, the fact remains that the New Scheme, 2011 itself was not in existence while passing the impugned orders, in view of the decision of a learned Single Judge of this Court in W.P.(MD).No.2893 of 2011, dated 18.04.2018. Therefore, the impugned order needs to be interfered with on this ground alone.

6. Further, it is seen that the first respondent provided an opportunity of hearing to the petitioners before inspection but not after inspection. The first respondent ought to have provided an opportunity of hearing to the petitioners before passing the impugned orders, as directed by the appellate authority, which has also not been complied with.

7. In view of the above, the impugned orders passed by the first respondent are set aside and all the matters are remanded to the file of the first respondent. The first respondent is directed to consider the application of the petitioners as per the old scheme ie., Modified Area approved scheme in G.O.(Ms).No.1548, Home (Transport -III) dated 17.11.1999 and after giving an opportunity of personal hearing, pass appropriate order on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.



8. These Writ Petitions stand disposed of accordingly. No costs.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS-I)

To

1.The Regional Transport Authority,
Office of the Regional Transport Authority,
Tirunelveli District.

2.The Regional Transport Officer,
Thenkasi,
Tirunelveli District.

+ 3 CC TO MR.A.C.ASAITHAMBI, ADVOCATE IN SR NO.89068,89069 & 89070
+ 1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO.89133

GCG

BU/RSK/SAR-I :31.10.2018 : 4P/7C

Common Order made in
W.P (MD) Nos.15522, 18067 and 18068 of 2018
05.10.2018