



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	22.12.2017
Pronounced on	11.01.2018

WEB COPY

Coram:

The Hon'ble Mr.Justice M.VENUGOPAL
and
The Hon'ble Mrs.Justice R.THARANI

W.P.(MD) No.21989 of 2017

J.Sundararajan

.. Petitioner

Vs.

1. The General Manager
Tamilnadu State Transport Corporation
Bypass Road, Palanganatham,
Madurai - 625 003
2. The Branch Manger,
Tamilnadu State Transport Corporation
GST Road, Thirupparankundram,
Madurai - 625 005
3. The Inspector of Police (Law & Order)
Thirupparankundram Police Station,
Thirupparankundram,
Madurai - 625 005
4. The Inspector of Police (Traffic)
Thirupparankundram Police Station,
Thirupparankundram,
Madurai - 625 005

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the Respondents 1 and 2 herein to regulate bus services to ply through the Madurai - Thirupparakundram Road Over Bridge via Thirupparankundram Town.

For Petitioner : Ms.J.Anandhavalli

For Respondents : Mr. A.P.Muthupandian
Standing Counsel for R1 and R2
Mr.M.Govindan
Special Government Pleader for R3 and R4

O R D E R

M.VENUGOPAL, J.,

The Petitioner has filed the present Writ Petition praying for passing of an order by this Court in directing the Respondent Nos. 1 and 2 to regulate Bus Services to ply through Madurai - Thirupparankundram Road Over Bridge via Thirupparankundram Town.

The Petitioner's Pleas :

2. According to the Petitioner, 'Thirupparankundram' is a busy pilgrimage town in Madurai District and devotees from all over the country visit the temple around the year for various festivals. The town is well connected by road and there are two main roads connection to Thirupparankundram viz.,

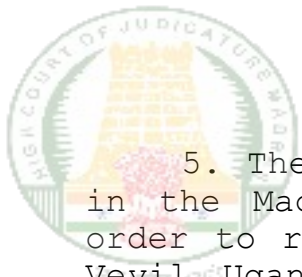
(i) The Madurai - Thirupparankundram road that connects the town with Madurai city and vehicles from Northern parts of Tamilnadu that enter the town via Madurai City.

(ii) Madurai - Thirumangalam bypass road [Highway] through which vehicles from Southern districts enter the Thirupparankundram town.

Since there were illegal crossings across the Madurai - Thirupparankundram road based on repeated demands and request from the public, it was replaced by Road Over Bridge (ROB), which was opened for public in the year 2013. A Limited Use Subway is also being constructed for the said Road Over Bridge.

3. It is the stand of the Petitioner that 'Thirupparankundram' being a busy town, it witnesses heavy inflow of passengers and it is well connected by Corporation Buses. The city buses that connect and ply through Thirupparankundram Town include 5, 14, 22, 48 and 3 series buses and bus route 52. That apart, when the Road Over Bridge (ROB) was under construction, the buses were allowed to pass via National Highways No.7. Also, entry to the Thirupparankundram Town was closed and the buses were plying through National High Ways No.5. Added further, buses were allowed to stop at three places, viz., (i) TCE College Stop, (ii) Thirupparankundram Temple Stop and (iii) Park stop from there, the public have to walk for more than a Kilometer to enter Thirupparankundram Town, which causes great hardship to commuters in and out of the town and to avoid this, the public used the railway line adjacent to the above stop by foot because of which, several accidents take place.

4. The Learned Counsel for the Petitioner proceeds to point out that ever since the Road Over Bridge was opened to public, all buses plying from Madurai to Thirupparankundram and other places via Thirupparankundram ought to utilise the Road Over Bridge. Also that, the city buses from Madurai continue to use Madurai-Thirumangalam bypass road, which falls underneath the bridge. Moreover, it is represented on behalf of the Petitioner that the said Bypass Road is part of NH-7, which is longest stretch of National Highways and facilitates several high speed vehicles proceeding from across the country.



5. The main grievance of the petitioner is that the passengers in the Madurai-Thirumangalam city buses are illegally dropped in order to reach the Thirupparankundram Town. In fact, the Arulmigu Veyil Uganthamman Temple is located adjacent to one of the bus stoppings, where the passengers are being dropped. The Petitioner comes out with a plea that since railway line is frequented by trains to and from Madurai Junction and also electrified, many accidents are taking place frequently and during the last six months, there were 15 death, due to such crossing of railway lines.

6. The Learned Counsel for the Petitioner brings it to the notice of this Court that due to connectivity of Thirupparankundram Town to nearby places through bus has largely been lost and that the residents of the town are left with no choice, but, to cross the railway line at various points to travel by city buses. As a matter of fact, the Petitioner had addressed a representation (with a copy being marked to Respondent Nos. 2 to 4) to the 1st Respondent on 05.07.2017 seeking to do the needful to ensure that all city buses run through Thirupparankundram Town to avoid accidents. Since no reply has been received by the Petitioner, he has filed a Petition under Right to Information Act, 2005 on 27.06.2017 requesting particulars of action taken on his 'Representation'.

7. At this juncture, the Learned Counsel for the Petitioner submits that the Public Information Officer of the Tamilnadu State Transport Corporation, to the Petitioner's Representation, furnished a reply dated 18.09.2017 stating that the city buses ply on the respective routes assigned and the stopping of the bus is allowed only on the approved bus stops. Despite the representation, the buses, according to the Petitioner, continue to stop illegally underneath the bridge, thereby increasing the death toll.

8. The Learned Counsel for the Petitioner takes a plea that it was positively assured that the construction of 'Road Over Bridge' will be completed by 18 months with the proper cooperation from the public and it was also requested to tolerate the temporary inconvenience. Further, it is the stand of the Petitioner that the diversion of vehicles (including buses) into the Madurai - Thirumangalam bypass road is only a temporary measure for a span of 18 months and after the opening of Road Over Bridge, the vehicles and buses 'To and through Thirupparankundram', ought to use the 'Bridge' only. Moreover, the plea taken on behalf of the Petitioner is that the temporary diversion of the buses through bypass road continues till date, thereby compelling the passengers to cross the railway track, which unfortunately results in fatal accidents often.

9. The Learned Counsel for the Petitioner projects an argument that the festivals, which the Respondent Nos.3 and 4 relied upon for traffic disturbance are no way connected in respect of the buses that are to ply through Thirupparankundram Town, because the Public / Devotees, who desire to visit temple will either get down at



Sannathi Stop or at Temple Stop and will use the North Ratha Veethi or Mela Ratha Veethi to reach the temple, which are not the routes where the buses are going to ply.

10. The Learned Counsel for the Petitioner submits that in the Map filed by the Respondents 1 and 2, the Blue coloured Portion is shown as Madakulam Kanmoi. But, actually, it is only 'Thenkal Kanmoi' and further that the width of the Brown Coloured Portion and Yellow Coloured Portion shown in the Tiruparankundram Flyover Layout are 26 feet in Width and if the width of the bus is approximately calculated at the maximum of 8 feet, still two buses on opposite side can pass through easily without any hindrance and also leaving a gap of 8 feet.

11. The Learned Counsel for the Petitioner points out that from the xerox copy of the ticket for Bus No.48, for travelling between Thiruparankundram to Periyar, it can be inferred that bypass road is not the destination and in fact, the route / important stops for the bus services of 5 Series, 14 Series, 48 Series and 31 Series shows that Thirupparankundram Town as a passing through route.

12. The Learned Counsel for the Petitioner contends that the width of the Brown Portion from Puliamarathadi Stop to near the Bridge (GST Road) is 26 feet excluding the platform area, which comes to 6 feet width on either side. In fact, the road gets widened at the Mela Ratha Veethi to a breadth of 30 feet and leads a way to temple through North Ratha Veethi and Mela Ratha Veethi and as such, the Brown Portion shown in the Thirupparankundram Flyover layout is not 24 feet width in total, as projected by the Respondents.

13. The Learned Counsel for the Petitioner by referring to the Mannual of Tamilnadu State Transport Corporation Limited, Madurai submits that the Transport Corporation's object is to provide efficient, economical and coordinated transport facility to the public in the jurisdiction of Madurai, Thoothukudi, Dindigul, Theni, Virudhunagar, Tirunelveli and Kanyakumari Districts. In fact, according to the Petitioner, the object is to provide the transport facility to the public and the prayer sought for by him in the Writ Petition is a facility that was being done by the Respondents 1 and 2, namely, Bus Services, inside the Thirupparankundram Town and via Thirupparankundram Town all along and which was diverted for the sake of construction of 'Road Over Bridge'.

14. The Learned Counsel for the Petitioner urges on the fact that all the buses were passing through Thirupparankundram Town through Brown Portion shown in the Petitioner's plan for so many years and there was no complaint regarding the traffic. Further, if the passengers are dropped at bypass road as it is being done now, the situation will be worse, as the passengers have to cross the railway line that runs parallel to the bypass road to reach the Thirupparankundram Town and the accidents will be more at the time



of festival.

15. The Learned Counsel for the Petitioner comes out with a plea that if the buses are to ply through the 'Road Over Bridge' via Thirupparankundram town, the passengers will be dropped nearer to the temple and the accidents could be easily avoided. Apart from that, the tickets are being issued by the Respondent / Transport Corporation from 'Periyar to Thirupparankundram or via Thirupparankundram', the passengers cannot be dropped at places, which is not within the route of the bus permits. In this regard, the Learned Counsel for the Petitioner brings it to the notice of this Court that even the road at Simmakal is not very wide in certain places, but the buses have to pass through the said routes, because the same is within the permit of the buses and to satisfy the commuters / travelling public.

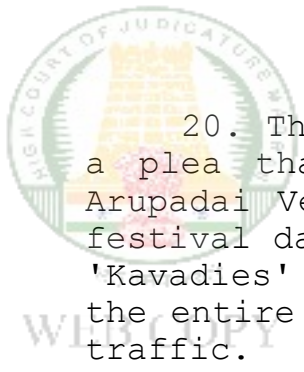
16. The Learned Counsel for the Petitioner takes a stand that the transportation of bus service are being utilised mostly by the lower middle class people and poor people and therefore, they cannot be put to disadvantages position that too at the risk of their life and further, it is projected on the side of the Petitioner that because of these city buses are plying through bypass road, there is a heavy traffic for the Mofussil Buses. In short, the plea of the Petitioner is that when the Respondent Nos.1 and 2 have allowed the construction of bridges to avoid traffic congestion, the same is to be utilised by the Respondents for welfare of the public, especially when crores of public money was spent, as regards the construction of Bridges.

17. The Learned Counsel for the Petitioner adverts to the object of the Transport Corporation, which is to provide efficient, economical and co-ordinated transport facility to the public in the jurisdiction of Madurai, Dindigul, Theni, Virudhunagar, Thirunelveli, Thoothukudi and Kanyakumari Districts and accordingly, the Corporation is operating 513 Cities, 1347 Towns, 1406 Mofussils and 59 Ghat services as on 31.01.2017.

The contentions of Respondent Nos.1 and 2 :

18. Conversely, it is the submission of the Learned Counsel for Respondent Nos. 1 and 2 that the operation of all the buses via Thirupparankundram Town is not possible, since the road at Pattarai Stop and near Devinagar Junction of over bridge are very narrow and large number of present vehicles population cannot negotiate easily at this place, which will cause traffic congestion as well as to increase the accidents.

19. Advancing his arguments, the Learned Counsel for the Respondent Nos. 1 and 2 contends that the Petitioner's representation dated 05.07.2017 does not contain any one's signature from the 'Aggrieved public' and further that, the Petitioner's act is only a 'Private Interest' and not a 'Public Interest'.



20. The Learned Counsel for the Respondent Nos.1 and 2 projects a plea that Thirupparankundram, one of the Pilgrimage Centre of Arupadai Veedu of Lord Muruga and large number of Pilgrims, during festival days will gather and Lord Muruga's devotees do worship with 'Kavadies' 'Alagu' and 'Milk Vessel', which normally pass through the entire road, in which event there will be a standstill of whole traffic.

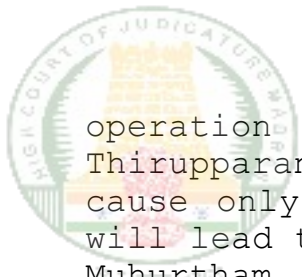
21. The Learned Counsel for the Respondent Nos. 1 and 2 brings it to the notice of this Court that since due to closure of railway gate for 'Passage of Trains', there were heavy traffic congestion in and around railway gate at Thiyagarajar Engineering College, at Poonga Stop, and at Railway Over Bridge. As such, Railway Over Bridges were opened for the benefit of public, who intend to go to Thirupparankundram Temple on two sides. Besides this, 48 series were operated only via bypass road before closure of railway gates for construction of over bridge, Thirupparankundram bypass road was formed prior to 30 years and that the Petitioner had wrongly mentioned that the bypass road was formed in August, 2010.

22. The Learned Counsel for the Respondent Nos. 1 and 2 points out that during the Railway Over Bridge Works, the buses in Route Nos.5, 14, 22 and 52 were diverted via Thirupparankundram Bypass road and stopped at three existing places, i.e., (i) Thiyagarajar Engineering College Stop (ii) Thirupparankundram Temple Stop (iii) Poonga stop, which are the regular stops of 48 series. After the bridge works were completed, the buses with numbers 5, 14, 22 and 52 were again operated on their original route, via inside the Thirupparankundram Town and the buses, which were operated at the Route Number 48 series were alone continued their operation in the bypass road, as operated earlier to the closure of railway gate.

23. The Learned Counsel for the Respondent Nos. 1 and 2 submits that the temple stop was in vogue prior to the construction and after completion of Railway Over bridge and as such, the averment that the temple stop was formed only during the diversion is not a correct one.

24. The Learned Counsel for the Respondent Nos.1 and 2 contends that it cannot be expected that all main road traffic are to be operated on the narrow road inside Thirupparankundram and in regard to the averments made in Paragraph Nos. 11 and 12 of the Writ Affidavit that the Pilgrims, who want to go to Arulmigu Subramania Swamy Koil are dropped at the Temple stop, which is for the benefit of the general public / devotees and the city buses are stopped at Temple stop, which is welcomed and utilised by the travelling public with satisfaction.

25. The Learned Counsel for the Respondent Nos.1 and 2 draw the attention of this Court to the fact that already sufficient services of 321 singles are operated via Railway Over bridge, Sannathi Stop, Pattarai Stop, Thirupparankundram bus stand and the



operation of all other buses (1,734 singles) via inside the Thirupparankundram Town will not be in public interest and it will cause only traffic block inside the Thirupparankundram Town, which will lead to more travel time to passengers. Added further, during Muhurtham, Girivalam and all festival days, according to the Respondents 1 and 2, the existing services inside the Thirupparankundram town are also diverted via Bypass road.

The submissions of Respondent Nos.3 and 4 :

26. It is the submission of Learned Special Government Pleader appearing for Respondent Nos. 3 and 4 that if all the city buses are to be operated via Thirupparankundram, then, it will be a hindrance to the traffic and to the 'General Public'. Further, it is represented on behalf of the Respondent Nos. 3 and 4 that the Thirupparankundram Flyover Bridge beginning from Pattarai Bus Stop (Okkilikar Bus stop) till the end of Harvipatti Bridge, the road is a narrow one and if the buses proceeding to Thirupparankundram, Thirunagar and Thirumangalam are to be operated through Thirupparankundram town, then, it will cause congestion to the traffic as well as to the public.

The Petitioner's Reply:

27. The Learned Counsel for the Petitioner submits that the Petitioner's grievance is that the buses are not plying through the 'Road Over Bridge' and further that the present vehicles runs through the road over bridge, as it were before construction of road over bridge the public cannot go to Thirupparankundram Town. In this connection, it is represented on behalf of the Respondent Nos. 1 and 2 that public cannot walk over road Over Bridge to enter Thirupparankundram particularly, when there is no platform even in the 'Road Over Bridge'.

28. Apart from the above, it is the stand of the Petitioner that Bus No.48 has several services and people from Thirupparankundram cannot travel to Thirumangalam and places beyond Thirumangalam and also market is located inside the town.

29. The Learned Counsel for the Petitioner submits that the vegetable vendors while carrying vegetable over their head crosses the 'Railway Line' and thereby accidents are taking place and in regard to the Bridge Over the Bus stand, Thirupparankundram is concerned, although the 'Construction of sub-way' was planned and the same was sanctioned, but the same is not constructed.

30. The Learned Counsel for the Petitioner contends that the aforesaid bridge should have service road on either side, but, service road is in existence only on one side. The core plea of the Petitioner is that the Temple stop is in vogue even now, but, the issue is where the bus stops as temple stop, is it in the Thirupparankundram Town or in the bypass and now the buses are stopping at bypass as 'Temple Stop' and even before the



construction of road over bridge, Bus No.48 series was running through Thiruparankundram Town in bypass.

31. The Learned Counsel for the Petitioner strenuously projects an argument that the city buses of the Respondent Nos.1 and 2 will have to pass through Thiruparankundram town for the residents therein, which is the route for those buses before the construction of the 'Bridge', but the city buses are stopped at temple stop in bypass road, which was only temporary arrangement till the construction of Road Over Bridge. Now, the construction is completed, bridge is made available to the public and therefore, city buses must ply only Over the Bridge.

32. The Learned Counsel for the Petitioner circulated an affidavit duly sworn to by the Petitioner dated 03.01.2018 wherein at Paragraph No.23, it is mentioned that "on 02.01.2018, a Second Year MCA Student of Thiagarajar College of Engineering, who was returning from the College to proceed to her house, while crossing the railway line to reach the bus stop, had met with an accident by a train passing through and died on the spot, therefore, a contention is advanced on behalf of the Petitioner that if buses are passing through Thirupparankundram Town, as it was doing all along for more than 15 years on the same width of the road, which is now in existence, such accidents will be stopped. Moreover, dropping of the passengers at bypass road is not a safety measure. Added further, another object of the Transport Corporation is economic and efficiency of the transport system, which clearly indicates that the passengers are to be dropped at the nearest destination and such an act should not cause extra cost to the passengers".

33. The Learned Counsel for the Petitioner adds a plea that the 'Road-Transport' occupies a primordial place in today's world and it provides areach unparalleled by any other contemporary mode of transport. Further, it is the stand of the Petitioner that the Transport Department is the 'Nodal Agency' in respect of projects implemented by the Southern Railway, Department of Postal and Telecommunication and Civil Aviation of Government of India. Moreover, after the year 1971, the State Transport Operations were entrusted to numerous Transport Corporations, which are registered under the Companies Act, 1956.

An Appraisal :

34. It is to be pointed out that 'Mandamus' is the watch dog to see that any perversity does not creep into the decision. Further, there must be an independent application of mind and bonafide exercise of power by the authority in arriving at a conclusion. It cannot be ignored that 'Mandamus' never lies when the Writ, if granted, would prove inoperative. In short, a 'Writ of Mandamus' is issued to stimulate and not to fetter an official function.

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

35. In a well known treaty of S.A.Desmith's 'Judicial Review'

of 'Administrative Action' (third edition) at page 59, it is mentioned as under:

'It may describe in a duty, the discharge of which involves no element of discretion or independent Judgment. Since an order of Mandamus will issue to compel the performance of Ministerial Act and since, moreover, wrongful refusal to carry out a ministerial duty may give rise to liability in Tort, it is often practical importance to determine whether discretion present in the performance of a statutory function. The case on Mandamus show, however, that the presence of a minor discretionary element is not enough to deter the courts from characterising a function as Ministerial'.

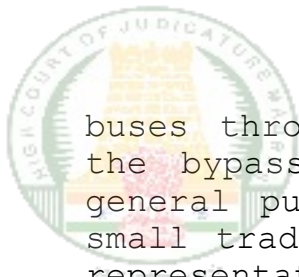
36. It is to be borne in mind that an existence of a legal right and an obligation of a public authority to fulfil the same on the date of petition are the essential conditions precedent to seek for a 'Writ of Mandamus'. It is to be remembered that in the absence of enforceable legal right, no Mandamus can be asked for. In short, the Petitioner / an Applicant must exhibit that he has legal right to the performance of legal duty, as per decision of **Honble Supreme Court, reported in AIR 1977 456 [Geep Flashlight Industries Ltd., V. Union of India and Others]**. At this stage, this Court aptly points out that the General Rule is, that 'Mandamus' will not be issued to direct an Authority to exercise his discretion in a particular manner or to control the exercise of his discretion in the absence of malafides. At this juncture, this Court also points out that if a public authority has a discretion in regard to the mode of performing his duty, the Court cannot command him in a specific way.

37. Also that, a 'Court of Law' cannot control or dictate the Judgment or decision, which shall be reached. A 'Mandamus' can be refused where a public authority has done all that it / he can reasonably fulfill its duty or where the remedy is unnecessary. A Court of Law is entitled to use his discretion to withhold the remedy in the interest of justice. The relief of 'Mandamus' will be refused when it will introduce a disorder or confusion.

38. In fact a 'Writ of Mandamus' is only granted to control the performance of duty of public nature. Further, it is to be noted that there is no statutory Law on 'Public Interest Litigation'. After all it is an 'Innovation of Judiciary.'

39. Apart from that, 'Mandamus' will not lie where the duty is clearly discretionary and a person upon whom the duty rests or exercise its discretion in a reasonable manner and within its jurisdiction viz., upon facts sufficient to support its action.

40. In the instant case, the Petitioner, as a Trustee and Hereditary Poojari of Veyil Ugantha Amman Temple had addressed a letter / representation dated 05.07.2017 to the 1st Respondent / General Manager of Tamilnadu State Transport Corporation, Madurai whereby and whereunder he had interalia prayed for passing of city

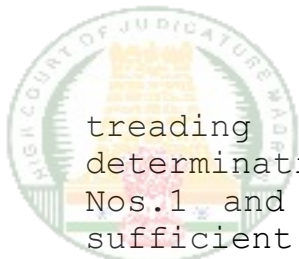


buses through Thirupparankundram Town (instead of passing through the bypass road), considering the interest of Thirupparankundram general public, devotees, sick persons, school going children and small traders etc., A mere glance of the contents of the letter / representation of the Petitioner dated 05.07.2017 categorically points out that the Government City buses drop the passengers at the National High Ways Road, as a result of which, the public are driven to a situation to cross the unsafety railway line. Furthermore, the Petitioner had averred in his representation dated 05.07.2017 that on his enquiry, he came to know that as per the 'Transport Rules', for the city buses, there is no room for dropping of the passengers either at the National Highways Road or at Bypass roads.

41. Moreover, this Court on a perusal of the letter / representation of the Petitioner dated 05.07.2017 addressed to the 1st Respondent (with a copy being marked to Respondents 2 to 4) is of the considered view that the said representation / letter was signed only by the Petitioner in his capacity, as Trustee and Hereditary Poojari of the Temple. In the said representation of the Petitioner dated 05.07.2017, the signatures of the members of the public are conspicuously absent, although the Petitioner had addressed the aforesaid representation dated 05.07.2017, purportedly the interest of Thirupparankundram general public, devotees, sick persons, school going children and small traders.

42. It is to be relevantly pointed out that the Road Width of the Fly Over Bridge is 25 Feet Road (7.5 Meter) and the Road Width of Bypass Road - Surface Road is 60 Feet Road (18.3 Meters). As a matter of fact, the distance from Devi Nagar Bridge to Thiagaraja College Bridge, via Fly Over Bridge is 2.5 Kms and via Surface Road is 2.0 Kms. It appears that Railway Over Bridge were opened for the benefit of travelling public, who intend to proceed to Thirupparankundram Town on two sides. In reality, Thirupparankundram Bypass Road was formed prior to 30 years and during the Railway Over Bridge works, the Bus Route Nos. 5, 14, 22 and 52 were repeatedly diverted via Thirupparankundram Bypass Road and stopped at (a) Thiagarajar Engineering College Stop (b) Thirupparankundram Temple Stop (c) Poonga Stop, which are the regular stops of 48 series.

43. It is the clear cut case of the Respondent Nos.1 and 2 that after the Bridge works were completed, the buses in Route Nos.5, 14, 22 and 52 were again operated on their original route via Thirupparankundram Town and the buses, which were operated in Route No.48 series were alone continued their operation through bypass road, as operated prior to closure of railway gate. In fact, the Temple Stop was in practice before the construction and after the completion of Railway Over Bridge. The Railway Over Bridge was formed for providing easy entry to the Pilgrim Town of Thirupparankundram and it is for the Respondent Nos.1 and 2 to take a call as to whether all main road traffic are to be operated in a narrow road inside Thirupparankundram and this Court cannot exceed its limits of 'Judicial Review' in an administrative matter by



treading upon matters committed by the constitution to the determination of executive. In the present case, the Respondent Nos.1 and 2 have come out with a plea that 521 singles, viz., sufficient services are operated via Railway Over Bridge, Sannathi Stop, Pattarai Stop, Thirupparankundram Bus stop and the operation of all other services (1734 singles) via inside Thirupparankundram Town will not be in 'Public Interest'. Further, it will cause only traffic blocks inside the Thirupparankundram Town. Continuing further, it is represented on behalf of the Respondent Nos.1 and 2 that during Muhurtham, Girivalam and all festival days, the existing services operated inside Thirupparankundram Town are also diverted via Bypass Road.

44. It cannot be forgotten that in Thirupparankundram, there is a Bus Stand / Bus Stop and alighting at the said Stop, one can reach the Thirupparankundram Murugan Temple and Veyil Ugantha Amman Temple. As a matter of fact, 48 series buses are operated through bypass road (from Periyar and Mattuthavani Bus Stand) for the benefit of travelling / commuting public, who travel to Thirumangalam (20-25 Kms approximately). It cannot be brushed aside that the 1st Respondent in its counter (to the Writ Petition) at Paragraph No.10 had stated that except 48 series buses, Bus Nos. 5, 14, 22 and 52 ply through railway over bridge. It is to be borne in mind that if the Unauthorised / Unapproved / Unrecognised Bus Halt in bypass road near Veyil Uganthamman Temple (adjacent to railway line) is stopped / discontinued by the 1st Respondent / Transport Corporation Authorities, considering the safety of travelling general public, devotees, sick persons, school going children and small traders and others concerned, then, happening of accidents resulting in death of precious human lives can certainly be avoided, in the considered opinion of this Court.

Result :

45. Be that as it may, in the upshot of detailed discussions, on a careful consideration of respective contentions and also this Court taking note of the fact that as a general rule, the 'Writ of Mandamus' will not be issued to direct the authority to exercise his discretion in a particular manner, that apart, this Court, bearing in mind yet another primordial fact that a Court of Law cannot command a public authority to perform its duty in a specific way, or itself substitute the order which should have been made, also considering the 1st and 2nd Respondents' plea that after bridge works were completed, the bus nos.5,14,22 and 52 were again operated on their original routes via inside Thirupparankundram Town and buses, which were operated in route number 48 series alone, continued their operation through bypass road, as operated prior to closure of the Railway gate and further, this Court, taking note of a pivotal fact that sufficient services of 521 singles are operated via Railway Over Bridge, Sannathi Stop, Pattarai Stop, Thirupparankundram Bus Stand and the operation of 1734 single services via inside Thirupparankundram Town will only cause traffic block inside the Thirupparankundram Town, which is not a public



interest, comes to a resultant conclusion that it is for the Respondent Nos.1 and 2 to exercise their sound discretion whether to regulate the bus services to ply through Madurai - Thirupparankundram Over Bridge over Thirupparankundram Town and in this regard, a Court of Law, cannot interfere in the absence of an enforceable legal right on the part of the Petitioner. Furthermore, when the Transport Corporation through 1st Respondent's counter has expressed its difficulties at Paragraph No.15, interalia to the effect that '....already sufficient services of 521 singles are operated via railway over bridge, sannathi stop, pattarai stop, Thirupparankundram busstand and the operation of all other services (1734 singles) via inside Thirupparankundram town will not be in public interest and it will cause only traffic blocks inside the Thirupparankundram Town and it will lead to more travel time for the direct passengers. Further, during Muhurtham, Grivalam and all festival days the existing services operated inside Thirupparankundram Town are also diverted via Bypass Road', then, all the more, this Court, cannot grant the relief of 'Mandamus' to and in favour of the Petitioner in the absence of the violation of any statutory provision(s) or any infringement of fundamental Rights on the part of the Transport Corporation. However, before parting with the case, in the light of the facts, which are brought to the fore, this Court in the interest of justice and on equitable consideration of the ground realities, directs the 1st Respondent / Transport Corporation to furnish a suitable reply explaining its stand point of view / position in the subject matter in issue, in a qualitative and quantitative manner, by meeting out each and every averments of the Petitioner set out in his representation dated 05.07.2017 (for redressal of his grievance) within a period of four weeks from the date of a receipt of copy of this order.

With the aforesaid observation(s) and direction(s), this Writ Petition stands disposed of, leaving the parties to bear their own costs.

Sd/-

Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The General Manager,
Tamilnadu State Transport Corporation,
Bypass Road, Palanganatham,
Madurai - 625 003

2. The Branch Manger,
Tamilnadu State Transport Corporation,
GSI Road, Thirupparankundram,
Madurai - 625 005



3. The Inspector of Police (Law & Order)
Thirupparankundram Police Station,
Thirupparankundram, Madurai - 625 005

4. The Inspector of Police (Traffic)
Thirupparankundram Police Station,
Thirupparankundram,
Madurai - 625 005

+ 1 CC TO M/s.J.ANANDHAVALLI, ADVOCATE IN SR No. 42034
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR Nos. 42239 & 41744

SSD

TE/KKR/SAR-1 : 30/01/2018 : 13P/7C

W.P. (MD) No.21989 of 2017
11.01.2018