



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.07.2018

Delivered on: 02.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD)No.16034 of 2016

and

W.M.P. (MD)No.11719 of 2016

1.The District Collector -cum-
The Regional Transport Authority,
Tirunelveli District,
Tirunelveli.

2.The Secretary,
The Regional Transport Authority,
Tenkasi,
Tirunelveli District.

: Petitioners

Vs.

1.The State Transport Appellate Tribunal,
Chennai-104.

2.R.Srinivasan

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the impugned orders of the first respondent in MV.APPL.No.22 of 2014, dated 24.09.2014 and quash the same.

For Petitioners

: Mr.K.Chellapandian,
Additional Advocate General,
Assisted by
Mrs.J.Padmavathi Devi,
Special Government Pleader

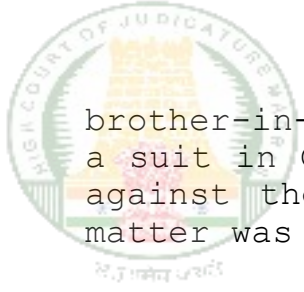
For Respondent No.2

: M/s.Porkodi Karnan,
For M/s.Polax Legal Solutions

ORDER

The subject matter involved in the Writ Petition is the transfer of permit in respect of stage carriage TCT 0905 and spare bus TCT 7585.

2. Originally, one Parijatham Ammal was the permit holder of the route Tirunelveli to Karaiyar. She expired on 18.08.1987 without leaving any legal heir. There was a dispute between the brother and brother-in-law of the said Parijatham Ammal with regard to transfer of permit. One Kanchana (minor), claimed herself to be the adopted daughter of Parijatham Ammal had applied for transfer of permit to the Regional Transport Authority, Tirunelveli on 09.09.1987. The



brother-in-law of the said Parijatham Ammal, viz., S.Ramasamy filed a suit in O.S.No.932 of 1987 and got an order of interim injunction against the transfer of permit in favour of Minor Kanchana. The matter was taken up before hierarchy of Courts.

3. In a Writ Petition filed by the Minor Kanchana in W.P.No.38505 of 2005 to grant an order of interim injunction restraining the first and second respondents therein from renewing the permit, this Court, vide its order dated 03.08.2006, directed the parties to settle the issue out of Court. Thereafter, on 05.02.2007, the Regional Transport Authority issued a notice of personal hearing to the parties concerned. Ultimately, the litigations went upto Supreme Court and the said Ramasamy won the case.

4. Thereafter, his son R.Srinivasan made an application for transfer of permit. It was rejected on the ground that the permit was not at all in existence as application for renewal of permit was not made from time to time, against which, an appeal was preferred before the State Transport Appellate Tribunal, Chennai, in MV.APPL.No.22/2014. The Tribunal, by its order dated 24.09.2014, allowed the appeal filed by the said Srinivasan by setting aside the order passed by the Regional Transport Authority, Tirunelveli. The Tribunal has considered that Section 82(2)(3) of the Motor Vehicles Act, 1988, specifies certain time limit and the proviso to Section 82(3) empowers the Transport Authority to entertain an application made after the expiry of the said period of three months, if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified. Considering the long legal battle between the legal heirs, the Tribunal allowed the appeal, holding that the Regional Transport Authority ought to have taken a lenient view in the case of condoning the delay in submitting the application for transfer of permit with a long delay. The said order passed by the Tribunal has been challenged by the Regional Transport Authority.

5. The second respondent had taken a stand that the Writ Petition itself is not maintainable, as it is filed by the quasi judicial authority himself. In support of his contention, he would rely on the judgment of this Court in The Regional Transport Authority v. State Transport Appellate Tribunal reported in AIR 1995 Madras 226, wherein at Paragraph Nos.27 and 28, it was held thus:

"27.

"The meaning of the words 'a person aggrieved' may vary according to the context of the statute. One of the meanings is that a person will be held to be aggrieved by a decision if that decision is materially adverse to him. Normally, one is required to establish that one has been denied or deprived of something to which one is legally entitled in order to make one 'a person aggrieved'. Again a person is aggrieved if a legal burden is imposed on him. The meaning of the words 'a person aggrieved' is sometimes



given a restricted meaning in certain statutes which provide remedies for the protection of a private legal rights. The restricted meaning requires denial or deprivation of legal rights. A more liberal approach is required in the background of statutes which do not deal with property rights but deal with professional conduct and morality. The role of the Bar Council under the Advocates Act is comparable to the role of a guardian in professional ethics. The words 'person aggrieved' in Sections 37 and 38 of the Act are of wide import and should not be subjected to a restricted interpretation of possession or denial of legal rights or burdens or financial interests."

In the above case, the Supreme Court held that the Bar Council, was considered to be an aggrieved person having regard to the functions it exercises and the duties imposed upon it under the Act. But, in my view, certainly, that cannot be a case here.

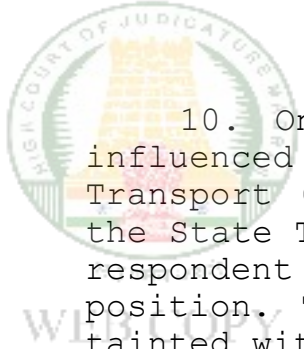
28. It is, thus, demonstrably clear from the authorities cited above, that the petitioner herein has not been denied or deprived of a legal right. He has not sustained injury to any legally protected interest. In fact, the impugned order does not operate as a decision against him, muchless does it wrongfully affect his title to something. He has not been subjected to a legal wrong. He has suffered no legal grievance. As observed by the Supreme Court, he has no legal peg for a justiciable claim to hang on. Therefore, I have no hesitation to hold that he is not a person aggrieved and has no locus standi to challenge the order of the Tribunal granting the reliefs to the respective 2nd respondent."

6. I have considered the rival contentions.

7. Instead of going into the merits of the case, I prefer to decide the preliminary issue of maintainability of the Writ Petition at the first instance.

8. The Hon'ble Supreme Court in *Mohtesham Mohd. Ismail v. Spl. Director, Enforcement Directorate* [2007(8) SCC 254] and a Division Bench of Allahabad High Court in the judgment in *Regional Transport Authority v. Sri Ram* [AIR 1974 ALL 140] held that the quasi judicial authority cannot maintain a challenge to the appellate order reversing its decision.

9. In the instant case also, the Regional Transport Authority, who is a quasi judicial authority, on his own, has sworn to an affidavit challenging the order of the Appellate Tribunal. Once a quasi judicial authority passes an order, he becomes functus officio. He cannot have any personal grudge against setting aside his order.



10. On the merits of the matter also, the petitioners were influenced by extraneous materials as to the operation of the State Transport Corporation bus in the route permit granted. Curiously, the State Transport Corporation is not at all a party and the second respondent had also not pleaded anything regarding the above factual position. Therefore, the order is based on personal knowledge and tainted with personal bias.

11. Secondly, the Tribunal has perused the files and found that the renewal application was filed and pending. This Court also directed the parties to settle the matter out of Court. In that event, the order passed by the Regional Transport Authority on the ground that no such renewal application is in existence cannot also be true.

12. Be that as it may, as discussed above, the Writ Petition is not maintainable and accordingly, it is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1.The State Transport Appellate Tribunal,
Chennai-104.

2.The District Collector -cum-
The Regional Transport Authority,
Tirunelveli District,
Tirunelveli.

3.The Secretary,
The Regional Transport Authority,
Tenkasi,
Tirunelveli District.

+1cc to Special Government Pleader, SR.No. 77330

Order made in
W.P. (MD) No.16034 of 2016
Delivered on: 02.08.2018
(1/2)

sml