



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.09.2017
Pronounced on : 10.01.2018

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP (MD) No.2048/2016 and
WMP (MD) No.1770 of 2016

P.Balamurugan

... Appellant

vs.

1. The Secretary to Government,
Transport Department,
St. Fort George,
Chennai - 600 009.
2. The Additional Director General of Police,
(Traffic Department)
Chennai.
3. The District Collector,
Regional Transport Authority,
Madurai.
4. The Regional Transport Officer,
Madurai North, Madurai.
5. The Regional Transport Officer,
Madurai South, Madurai.
6. The Regional Transport Officer,
Madurai Central, Madurai.
7. The Assistant Commissioner of Police,
Madurai (Traffic Department),
Madurai.
8. K.Alagu Sundaram,
Secretary, Sree Yoganarashimmar
Ape Auto Ottunar Podhunala Sangam,
No. 78-106, Muttammal Compound,
Y.Narasingham, Ottakadai Post,
Madurai District, Madurai.



9. V.Kumaravel,
Secretary, Madurai Maavatta
Orunginaindha Ape Auto
Ottunartal Nalachangam,
(Registered Society No.71/2013)
30/31 B, Anna Melathery,
Kamarajapuram, Madurai - 9.
(R8 and 9 are impleaded vide Court order
dated 06.09.2017 in W.M.P.(MD) Nos.
13431 and 13460 of 2017

10. C.Kannan,
General Secretary,
Madurai Mavatta Auto Salai
Pokkuvarathy Thozhilalargal Sangam,
No.27 F, Sarvodaya Salai,
Mehaboopalayam, Madurai - 16.

11. Raja @ Krishnan
S/o.Kamatchi Gounder ... Respondents
(R10 and 11 are impleaded in W.M.P.(MD)
Nos.13609 and 13846 of 2017 vide order dated 10.01.2018)

Prayer : Writ petition filed under 226 of Constitution of India, to issue a writ of mandamus, forbearing the respondents from allowing the Ape Auto to be operated as Share Auto/Stage Carrier in the light of Section 72 of the Motor Vehicles Act.

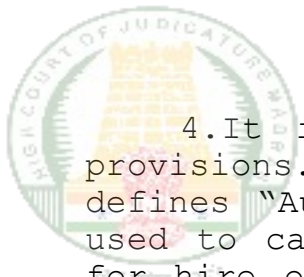
For Petitioner	: Mr.S.Saji Bino for M/s.J.Ashok
For Respondents	: Mr.M.Govindan, Spl.G.P. for RR1-7 Mr.T.Lajapathi Roy for RR8 & 10 Mr.Thiruppathi Chellasamy for RR9 Mr.R.Manoharan for RR11

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

A practising lawyer has filed this writ petition in public interest. His grievance is that Ape Autos are illegally plying as Stage Carriers/Share Autos". He has already lodged representations in this regard before the concerned authorities. Since no action was taken, the present writ petition came to be filed.

2.The Associations representing Ape Autos and one Raja @ Krishnan, Share Auto operator filed impleading petitions. Those applications were allowed and counter affidavit was also filed by one of the Associations.



4.It is necessary to have a look at the relevant statutory provisions. Rule 3(b) of Tamil Nadu Motor Vehicle Rules, 1989 defines "Auto Rickshaw" as a Motor Vehicle constructed, adapted or used to carry not more than three passengers excluding the driver for hire or reward and having less than four wheels. "Share Auto Rickshaw" is defined in Rule 3(da) and it is meant to carry five passengers. Ape Auto Rickshaws have been granted only contract carriage permit as per Section 74 of Motor Vehicles Act, 1988.

5.The learned Special Government Pleader appearing for the official respondents submitted on instructions that Ape Auto Rickshaw is not being permitted to be operated as Share Auto Rickshaw and that action is being taken whenever violations are noticed. This Court directed the official respondents to submit their status report as to the action taken. Thereupon, a detailed typed set was filed before this Court and it can be seen therefrom that action is being taken.

6.The learned counsel appearing for the impleaded private respondents would contend that they are catering to the pressing transport needs of the several public and that as many as 7000 members are plying Ape autos and that their only mode of livelihood would be affected if the writ petition is allowed.

7.The learned counsel appearing for the said private respondents would call upon this Court to direct the transport Secretary to regulate Ape autos. This Court cannot call upon the authorities to act in the manner contrary to law. In fact, this Court must direct the authorities to ensure that the statutory provisions are complied with in letter and spirit. When it is not in dispute that Ape Autos have been given only a contract carriage permit as per Section 74 of the Motor Vehicles Act and not stage carriage permit as per Section 72 of the Act, it is the statutory duty of the authorities to ensure that the said provisions are adhered to.

8.This Court therefore directs the respondents to take action on the representation dated 23.01.2016 submitted by the writ petitioner in accordance with law. In the very nature of things, it cannot be an one time measure. The respondents 3 to 7 are directed to ensure compliance of the statutory provisions in this regard.

9.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/



To

1. The Secretary to Government,
Transport Department,
St. Fort George,
Chennai - 600 009.

2. The Additional Director General of Police,
(Traffic Department)
Chennai.

3. The District Collector,
Regional Transport Authority,
Madurai.

4. The Regional Transport Officer,
Madurai North, Madurai.

5. The Regional Transport Officer,
Madurai South, Madurai.

6. The Regional Transport Officer,
Madurai Central, Madurai.

7. The Assistant Commissioner of Police,
Madurai (Traffic Department),
Madurai.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 42238
+ 1 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 41576
+ 1 CC TO Mr.J.ASHOK, ADVOCATE IN SR No. 41686

ARUL

TE/SV-MMS/SAR-1 : 28/02/2018 : 4P/11C

Order made in
WP (MD).2048/2016 and
WMP (MD) No.1770/2016
10.01.2018