

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.2358 of 2018

ORDER:

Heard Sri B. Siva Rama Krishnaiah, learned counsel for the petitioner, and learned Government Pleader for Transport appearing for the respondents.

In this Writ Petition the challenge is to Memo No.95/TS/B2/2017, dated 18.01.2018, issued by the Joint Transport Commissioner and Secretary, State Transport Authority, Hyderabad, the 3rd respondent herein, rejecting the request of the petitioner for grant of authorization in respect of All India Tourist Vehicle bearing No.AP 02 TA 0945.

The petitioner submitted application for issuance of authorization in respect of All India Tourist Vehicle bearing No.AP 02 TA 0945 for a period of three months from 07.12.2017 to 28.02.2018. It is also the case of the petitioner that he paid the required fee as per the Rules along with the said application.

The 3rd respondent herein by way of the impugned Memo No.95/TS/B2/2017, dated 18.01.2018, rejected the request of the petitioner with the following endorsement:

“As per CMV Rules 83(3), the period of validity of an authorization shall not be exceeding year at a time.”

While finding fault with the said reason assigned by the 3rd respondent, it is the contention of the learned counsel for the petitioner that the impugned action is not in conformity with the provisions of Rule 83 (3) of the Central Motor Vehicles Rules, 1989 (for short ‘the Rules’). On the contrary, it is the submission of the learned Government Pleader for Transport

that there is no illegality in the impugned Memo warranting interference by this Court under Article 226 of the Constitution of India.

In order to resolve the controversy, it would be appropriate to refer to the provisions of Rule 83 (3) of the Rules and the said Rule reads as under:

“The period of validity of an authorization shall not exceed one year at a time.”

A reading of the above Rule makes it abundantly clear that the authorization can be granted for the period not exceeding one year. It is also evident that there is no minimum period stipulated. The petitioner herein made application, requesting for grant of authorization only for three months, which obviously does not exceed one year. Therefore, the reason assigned by the 3rd respondent herein is not in conformity with the Rules.

Accordingly, the Writ Petition is allowed and the impugned Memo No.95/TS/B2/2017, dated 18.01.2018, issued by the 3rd respondent is set aside. Consequently, the respondents herein shall consider the petitioner's application and issue authorization forthwith to him in accordance with Rule 83 (3) of the Rules.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 02.02.2018
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