

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

Writ Petition No.8213 and 8215 of 2018

COMMON ORDER :

Heard the learned respective counsel for the respective petitioners and the learned Govt. Pleader for Transport for respondents 1 and 2 and permitted to delete the name of unofficial 3rd respondent in both the matters not necessary for disposal of the two writ petitions and perused the prayer in the respective writ petitions with supporting affidavit and other material particularly the expression of the Apex Court in Spl.Leave Appeal Nos.12736 and 12737 of 1999,dt.01.05.2017 and perused the material on record.

2(a). The prayer in W.P.8213 of 2018 reads as follows:-

“to issue a writ or order or direction more particularly one in the nature of writ of mandamus directing the respondents 1 and 2 to take appropriate action on the representation of the Petitioner vide Lr No KST CO LAW(Route) 139/17-18 dated 10-07-2017 against the 3rd respondent herein and direct her to stop the operation of additional trip of permit No 1/62-63 (old no.) and renumbered as 23/98-99 (new no.) on the inter-state route Bangalore to Ananthapur and back and seize the vehicle No KA-43-9995 covered by the said permit in the interest of justice and to pass such other order or orders.”

2(b). The prayer in W.P.No.8215 of 2018 reads as follows:-

“to issue a writ or order or direction more particularly one in the nature of writ of mandamus directing the respondents 1 and 2 to take appropriate action on the representation of the Petitioner dated 23-08-2017 against the 3rd respondent herein and direct her to stop the operation of additional trip of permit No 1/62-63 (old no) and renumbered as 23/98-99 (new no) on the inter-state route Bangalore to Ananthapur and back and seize the vehicle No KA-43-9995 covered by the said permit in the interest of justice and to pass such other order or orders”

3. In the expression of the Apex Court in Spl.Leave appeal Nos.12736-12737 of 1999,dt.01.05.2017, the R.3 herein-Smt. K.J.Nirmala went unsuccessful against the State Transport Appellate Tribunal and others in the earlier round of litigation before the Apex Court from

dismissal of the Spl. Leave to Appeals by holding that since the issue was already covered in Civil Appeal No.4480 of 98, dt.22.09.2016 which was dismissed by the Constitution Bench (5JB) expression in G.T.Venkataswamy Reddy Vs. State Transport Authority and others¹ where it is observed referring to Section 57(8) of the Act 4 of 1939 = Section 80(3) of the Act 59 of 1988 in relation to increase in number of trips and increase in number of vehicles, an application for variation in a stage carriage permit should be made not less than six weeks before the date on which it is desired that the permit shall take effect and the applicant must specify the date from which he desires such variation to take effect and that filing of the application should be mandatorily made by giving not less than six weeks time gap from the desired date of the applicant for the varied condition to take effect, that too within the notified area in route without any overlapping in saying Section 68(b) and 57(8) of the Act 4 of 39 are no way overlapping nor inconsistency in the formulation of the scheme and its implementation respectively.

4. It is the main grievance of the supporting affidavit averments that despite R.3 went unsuccessful before the Apex Court where reiterated Constitution Bench expression of the Apex Court in G.T.Venkataswamy supra, the laxity of the respondents 1 and 2 is giving helping hand to violate said statutory provisions without permit for the variations and they are bound to take action and their inaction made them to maintain the two writ petitions.

5. The learned Govt. Pleader submits that they will act pursuant to the representation of the KSRTC dt.10.07.2017 and the another of Venkateshwara Motor service of M.Venkaiah, dt.23.08.2017.

¹ AIR 2016 SC page 3496

6. Having regard to the above, by recording the same, both the Writ Petitions are disposed of directing the respondents to dispose of said representations of the two writ petitioners within four (4) weeks from the date of receipt of the order by taking necessary action and communicate the progress of the orders being passed therein to the respective petitioners.

7. Consequently, miscellaneous petitions, if any, pending shall stand closed.

Date: 14.03.2018
vvr

Dr. B. SIVA SANKARA RAO J,

