

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2019

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.4612 of 2019
and
W.M.P.No.5215 of 2019

All Omni Bus Owners & Operators Association
Represented by its General Secretary A.Anbalagan
F-4, Sriji Majestic Complex,
Omni Bus Terminal, Koyambedu
Chennai 600 107.

... Petitioner

Vs

1.The State of Tamil Nadu represented by
The Secretary to Government Home (Transport)
Department, Fort St.George, Chennai 600 009.

2.The Transport Commissioner cum The State,
Transport Authority, Ezhilagam,
Chepauk,
Chennai - 600 005.

... Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India, seeking for issuance of a Writ of
Mandamus forbearing the second respondent and all officers
subordinate to the second respondent from demanding and
collecting "compounding fee" for alleged violations of
conditions of permit or offences specified in the Motor Vehicles
Act 1988 at unspecified rates at the place of checking of the
vehicles of the members of the Petitioner Association.

For Petitioner : Mrs.Radha Gopalan for
Mr.R.Natesan

For Respondents : Mr.V.Shanmuga Sundar,
Special Government Pleader.

O R D E R

The petitioner association filed a writ petition before
this Court making allegations of collecting compounding fee for
violations of conditions of permit or offences specified in the
Motor Vehicles Act 1988 at unspecified rates by the checking
officers.

2. According to the petitioner, it is stated that the checking officers can only forward the check reports to the Authority that granted permit, for suitable action if the alleged offences are proved for suspension or cancellation of permit. The learned Counsel for the petitioner further submitted that the discretion is given only to the authority passing the order to specify a compounding fee in lieu of suspension or cancellation of permit. Therefore, the present writ petition has been filed before this Court challenging the action of the second respondent in collecting compounding fee at unspecified rates.

3. The first respondent filed a counter affidavit wherein it is stated that many complaints were received from public and all the enforcement officials have been directed to check and curb the irregularities, if any detected at the time of checking. There is a report in the counter affidavit furnishing the particulars in respect of eight vehicles which have committed irregularities by violating permit conditions and therefore, compounding fee under rule 206 of Tamil Nadu Motor Vehicle Rules 1989 is complied with for home state permits and not for other state omni buses.

4. The learned Counsel for the respondent further stated that G.O.M.S.No.849 Home (Tr-VII) Department, dated 13.12.2011 envisages spot fine system throughout the State in respect of vehicles coming from other States. Therefore, in so far as the power concerned in enforcement of the said Government order, the contention of the petitioner association cannot be considered and further, it is stated that if there is any violation of the conditions, the authority concerned has got power to adopt the spot fine system for other State vehicles which violate the permit conditions.

5. It is further stated in the counter affidavit that the other State operators are getting temporary permits and they are setting down the passengers belonging to their States. Hence, it is stated that by violating the said conditions, they are picking up and setting down the passengers from Tamil Nadu itself. Therefore, the authority is empowered to collect compounding fee for the offences committed and also relied upon various positions in support of his contentions.

6. By considering the aforesaid counter submissions, the prayer of the petitioner association to restrain the 2nd respondent from collecting compounding fee cannot be granted. If the petitioner association finds any individual violation of the provisions of the Act and illegality in imposing compounding fee contrary to the rules and regulations, it is for the

individual operators to approach the authorities concerned to seek remedy. The prayer as such found in the writ petition cannot be entertained and the same is liable to be rejected.

7.In the result, this Writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government Home (Transport) Department, Fort St.George, Chennai 600 009.
- 2.The Transport Commissioner cum The State, Transport Authority, Ezhilagam, Chepauk, Chennai - 600 005.

+lcc to Mr.R.Natesan, Advocate, S.R.No. 29702
+lcc to the Government Pleader, S.R.No. 29178

W.P.No.4612 of 2019
and

W.M.P.No.5215 of 2019

MP (CO)
GN(06/05/2019)

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