

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13394 of 2006

And

W.P.M.P.No14955 of 2006

A.Rangarajan

...Petitioner

Vs.

1.The Revenue Divisional Officer,
Tiruppur.

2.The Regional Transport Officer,
Tiruppur.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent made in Na.Ka.No.6697/2004/A1 dated 31.12.2005 and quash the same so far as it affects the interest of the petitioner.

For Petitioner : Mr.M.Palani

For Respondents : Mr.S.K.Bhuvaneswari
Additional Government Pleader

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2. The writ petitioner is a stage carriage operator and was issued with a valid permit for the carriage operator earmarked by the second respondent. The petitioner was aggrieved by the impugned order passed by the first respondent dated 31.12.2005, stating that the carriage operated by the writ petitioner must be terminated only at the new bus stand and should not be sent to the old bus stand at Kangayam Road. According to the petitioner, the said action on the part of the first respondent amounts to variation of permit conditions and therefore, the

petitioner ought to have been given notice of personal hearing before such action is initiated.

4. The learned counsel for the petitioner would submit that the Revenue Divisional Officer, the first respondent herein has no jurisdiction to vary permit condition, as he is not the authority recognized under the Motor Vehicles Act/Rules. Therefore, the resolution dated 31.12.2005 by the first respondent directing the Private Transport Operators, the petitioner herein, to halt at the new bus stand and not to proceed to old bus stand, suffered from jurisdictional error and the same is without the authority of law.

5. According to the learned counsel for the petitioner, the said legal issues had been settled to the effect that the Revenue Divisional Officer has no authority to pass orders regulating the motor vehicles' movement under the provisions of the Motor Vehicles Act/Rules.

6. The said legal position has been admitted by the learned Additional Government Pleader representing the respondents. However, in the counter affidavit filed in the present proceedings, it is stated that the first respondent merely acted in place of the second respondent, namely Regional Transport Officer in proceedings dated 27.06.2003 and 29.07.2003 and therefore, the said action cannot be construed as without the authority of law. Mere consequential direction issued by the first respondent cannot be said as without jurisdiction.

7. Per contra, the learned counsel for the petitioners would submit that with regard to the proceedings of the second respondent in R.No.30234/A3/2003 dated 27.06.2003 and 29.07.2003, on the subject matter of legal issue, very recently, the learned Judge of this Court has passed an order, allowing a batch of writ petitions on 07.09.2017 in W.P.No.21334 of 2005 batch. In those writ petitions, the aforesaid proceedings dated 27.06.2003 of the second respondent was put to challenge and those writ petition came to be allowed on the ground that the principles of natural justice was violated and no opportunity was afforded to the transport operator before issuing the said proceedings.

8. In view of the above position, the learned counsel for the petitioner would submit that the consequential resolution of the first respondent dated 31.12.2005, has no sanctity, apart from the jurisdictional error pointed out by him. Therefore, in all, the impugned order dated 31.12.2005, cannot be countenanced both in law and on facts and the same is liable to be set aside.

9. This Court has gone through the rival submissions of the learned counsel appearing for the parties. After perusing the material and pleadings placed on record, this Court is of the view there is considerable force in the contention of the learned counsel appearing for the petitioners that the impugned proceedings of the first respondent dated 31.12.2005 is without authority of law, as the first respondent is not vested with the power under the provisions of the Motor Vehicles Act/Rules. Therefore, the impugned action by the first respondent is without any jurisdiction and the same is liable to be interfered with.

10. Moreover, even assuming that resolution dated 31.12.2005 is only consequential action in pursuance of proceedings of the second respondent dated 27.06.2003 and 29.07.2003, the said proceedings of the second respondent having been set aside by this Court, in the recent order dated 07.09.2017 in the aforementioned batch of the writ petitions, the impugned order cannot independently stand. Hence, even on this ground, the impugned order is liable to be interfered with.

11. For the aforesaid reasons, this Court has no hesitation in allowing the writ petitions. The impugned order passed by the first respondent in Na Ka.No.6697/2004/A1 dated 31.12.2005 is hereby set aside. Accordingly, the Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

ssb

To

1.The Revenue Divisional Officer, Tiruppur.

2.The Regional Transport Officer, Tiruppur.

+1cc to Mr.M.Palani, Advocate SR.No.63105

+1cc to Government Pleader SR.No.63852

W.P.No.13394 of 2006
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VBA (CO)
GMY (20/08/2019)