

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No. 27289 of 2004

M.Bhooshan Kumar,
Proprietor,
P.N.M. Transports,
No.1, Sarathammal Building,
Bye-pass Road, Hosur,
Krishnagiri District.

..Petitioner

Vs

1. The Karnataka State Transport Authority,
IV Floor, M.S.Buildings,
Bangalore.

2. The State Transport Authority,
Chepauk, Chennai-5.

3. T.Venkatesan

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the first respondent in Sl.No.574, Subject No.42/2003 dated 24.7.2004 and quash the order in so far as it relates to the grant of extension of the permit of the third respondent upto Dhasanapura, overlapping the approved area scheme applicable to Dharmapuri District alone is concerned.

For Petitioner : M/s.R.Swarnalatha
For Respondents : M/s.K.Bhuvaneshwari,
AGP, for R2.
Mr.N.Gopalakrishnan, for R3

O R D E R

The prayer sought for herein in this Writ Petition is for issuance of a Writ of Certiorari, calling for the records on the file of the first respondent in Sl.No.574, Subject No.42/2003 dated 24.07.2004 and quash the order

in so far as it relates to grant of extension of the permit of the third respondent upto Dhasanapura, overlapping the approved area scheme applicable to Dharmapuri District alone is concerned.

2. The issue involved in this writ petition is whether the 1st respondent namely Karnataka Transport Authority have Jurisdiction to grant the enclave route permit in favour of the third respondent overlapping the approved area scheme of nationalisation in respect of the Dharmapuri District. This Court in similar cases wherein identical issue is involved has held in favour of the writ petitioner and the very same is also raised as a issue before the Division Bench of this Court reported in 2005 Writ L.R.167 held in favour of the petitioner.

3. The learned counsel for the petitioner would submit that even though both terminus lies in Karnataka State, the requirement of getting counter signature is only dispensed with. It is pertinent to point out that this Court has already taken the view that even in respect of an enclave route, no new permit can be granted overlapping on the approval scheme. Therefore, the first respondent granting permit in the impugned order in favour of the 3rd respondent violating the area approved scheme for Dharmapuri District is without Jurisdiction and the very same issue is already dealt with by the Hon'ble Supreme Court in Civil Appeal No. 4480 of 1998 and the relevant paragraphs are extracted here under:

"50. ... (h). Increase in the number of trips or vehicles which were being run under the existing exempted permit under a scheme will amount to grant of a new permit to operate one more Stage Carriage which is not permissible under Section 68FF.

(i) The proposition of law, laid down by this Court in 'JAYARAM' impliedly stood overruled in 'ADARSH TRAVELS'.

(ii) The economy and coordination, two of the factors, which govern the Approved Scheme, will be seriously infringed if the variation is to be granted of the existing permit condition.

(i)

(j)....

(k) Even if there is an interstate agreement under Section 63 of the Act for increasing the number of trips, such an agreement cannot override the provisions of Chapter IV-A by virtue of Section 68B of the Act. Section 63 being in Chapter IV of the Act, the scheme approved under Chapter IV-A will prevail over it."

4. In view of the above terms, I am inclined to grant the benefits granted by the Apex Court to the writ petitioner and in a similar way, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kmm
To

1. The Karnataka State Transport Authority,
IV Floor, M.S.Buildings,
Bangalore.
2. The State Transport Authority,
Chepauk, Chennai-5.

+1 cc to Government Pleader Sr.No. 51764

W.P.No. 27289 of 2004

ssd (CO)
A.SK(13/08/2019)

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