

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.21896 to 21898 of 2011

B.Padmavathi ..Petitioner in W.P.No.21896 of 2011
K.R.Sachindanda ..Petitioner in W.P.No.21897 of 2011
J.Sivananda ..Petitioner in W.P.No.21898 of 2011

-vs-

1. The Collector cum Regional Transport Authority Nilgiris
2. The Regional Transport Officer Nilgiris
3. The District Forest Officer Nilgiris
4. The District Superintendent of Police Nilgiris ..Respondents in all the writ petitions

Petitions under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent and 2nd Respondent herein, the Collector-cum-Regional Transport Authority, The Nilgiris to implement the Notification RC 31901/2009 (C3) dated 31.5.2010 published in the Nilgiris District Gazette dated 3.6.2010 permitting the petitioner to operate their Tourist Maxi Cab vehicles bearing Registration Nos.KA-03-AC-3222, KA-09-A-4854, KA-09-A-6676, KA-09-A-3414 respectively, from Mysore to Ooty (via) Thalakunda Theppakadu Road (via) Kallahatty during the hours as notified in the Nilgiris District Gazette dated 3.6.2010.

For Petitioners :: Ms.P.Vedavalle

For Respondents :: Mrs.P.Rajalakshmi
Additional Government Pleader
for R1, 2 & 4
Ms.Thanga Vadhana Balakrishnan
Additional Government Pleader
for R3

ORDER

The petitioners, claiming to be the holders of Maxi Cab permits to operate throughout India with authorisation bearing Registration Nos.KA-03-AC-3222 valid from 17.4.2010 to 16.4.2015, KA-09-A-4854 valid from 11.3.2011 to 10.3.2016, KA-09-A-6676 valid from 19.10.2006 to 18.10.2011, KA-09-A-3414 valid from 24.8.2011 to 23.8.2016 respectively, have come to this Court seeking issuance of a writ of mandamus directing the Collector cum Regional Transport Authority, The Nilgiris, the first respondent herein to implement the Notification RC 31901/2009 (C3) dated 31.5.2010 published in the Nilgiris District Gazette dated 3.6.2010 permitting the petitioners to operate their Tourist Maxi Cab vehicles bearing Registration Nos.KA-03-AC-3222, KA-09-A-4854, KA-09-A-6676, KA-09-A-3414 respectively, from Mysore to Ooty (via) Thalakunda Theppakadu Road (via) Kallahatty during the hours as notified in the Nilgiris District Gazette dated 3.6.2010.

2. A perusal of the notification issued by the Collector of Nilgiris dated 31.5.2010 and published in the Nilgiris District Gazette dated 3.6.2010 shows that in exercise of the powers conferred under Section 115 of the Motor Vehicles Act, 1988 read with Rule 370 of the Tamil Nadu Motor Vehicles Rules, 1989, the Collector of the Nilgiris District cum the Regional Transport Authority has prohibited the driving of motor vehicles and to close the vehicular traffic on the Thalaikundah-Theppakkadu road (via) Kallatty and Thorapalli-Theppakkadu-Kakkanallah road (N.H.67) from 10.00 p.m., to 6.00 a.m. The above notification issued by the Collector also imposed restrictions considering the dangers involved in travelling on these roads at night and in the interest of public safety and convenience. Moreover, to protect the wild life and to preserve its peaceful habitat, particularly keeping in mind the nocturnal animals peaceful habitat and the danger posed to various species including rare species, the notification has been issued with the concurrence of the State Transport Authority vide its concurrence R.No.28306/112/2010 dated 12.5.2010. When the notification dated 31.5.2010 has imposed a prohibition for driving of motor vehicles and also thereby closing the vehicular traffic on the aforementioned places, it is not known how the petitioners can come to this Court seeking to permit them to operate their maxi cabs from Mysore to Ooty (via) Thalakunda Theppakadu road (via) Kallatty during the restricted hours.

3. Detailed counter affidavits have been filed by the first respondent. The learned Additional Government Pleader for the respondents 1, 2 & 4, drawing the notice of this Court to the stand taken in paragraph-5 of the counter, stated that as the

National Highways NH67 extension connecting Nagapattinam and Mysore is passing through Ootacamund-Gudalur-Theppakad, this National Highways is being used by the vehicles to reach Ootacamund from Mysore also. As the Hon'ble High Court of Karnataka also has prohibited traffic between Bandipur and Kakkanalla from 9.00 p.m., to 6.00 a.m., as per the order dated 27.7.2009 in W.P.No.17498 of 2009 (PIL), the said circular has been issued in consonance with the direction issued by the High Court of Karnataka in the said order. While so, the petitioners misunderstanding the scope of the permits cannot come to this Court asserting their rights to use all the roads including the roads passing through forest and other sensitive areas which cannot be countenanced. According to the notification dated 26.4.2001, when the Collector cum Regional Transport Authority had closed the vehicular traffic on Thalaikundha-Theppakadu road via Kallatty from 11.00 p.m., to 6.00 a.m., subsequently, as per the order passed by the Hon'ble High Court of Karnataka in W.P.No.17498 of 2009 (PIL) dated 27.7.2009, the restriction has been increased from 9.00 p.m., to 6.00 a.m. Therefore, the petitioners cannot come to this Court.

4. This Court finds merit on the submissions made by the learned Additional Government Pleader for the respondents. When there are two orders issued prohibiting the vehicular traffic from Mysore to Ooty on the Thalaikunda-Theppakadu road via Kallatty and Thorapalli-Theppakadu-Kakkanallah road in N.H.67, the petitioners have not even come forward to question the correctness of any one of the orders. The notification in RC No.31901/2009 (C3) dated 31.5.2010 has been published in the Nilgiris District Gazette dated 3.6.2010 prohibiting the movement of any vehicular traffic during night time. The said notification has not been challenged. Secondly, there is also one another order passed by the Hon'ble High Court of Karnataka in W.P.No.17498 of 2009 (PIL) on 27.7.2009 prohibiting the traffic between Bandipur and Kakkanalla from 9.00 p.m., to 6.00 a.m. It is not known whether the petitioners or any other person had questioned the correctness of the order and no such further order passed by the Court, has been produced. In that view of the matter, the prayer made by the petitioners is unacceptable. Accordingly, the writ petitions fail and they are dismissed. Consequently, M.P.Nos.1 of 2011 are also dismissed. No costs.

ss

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

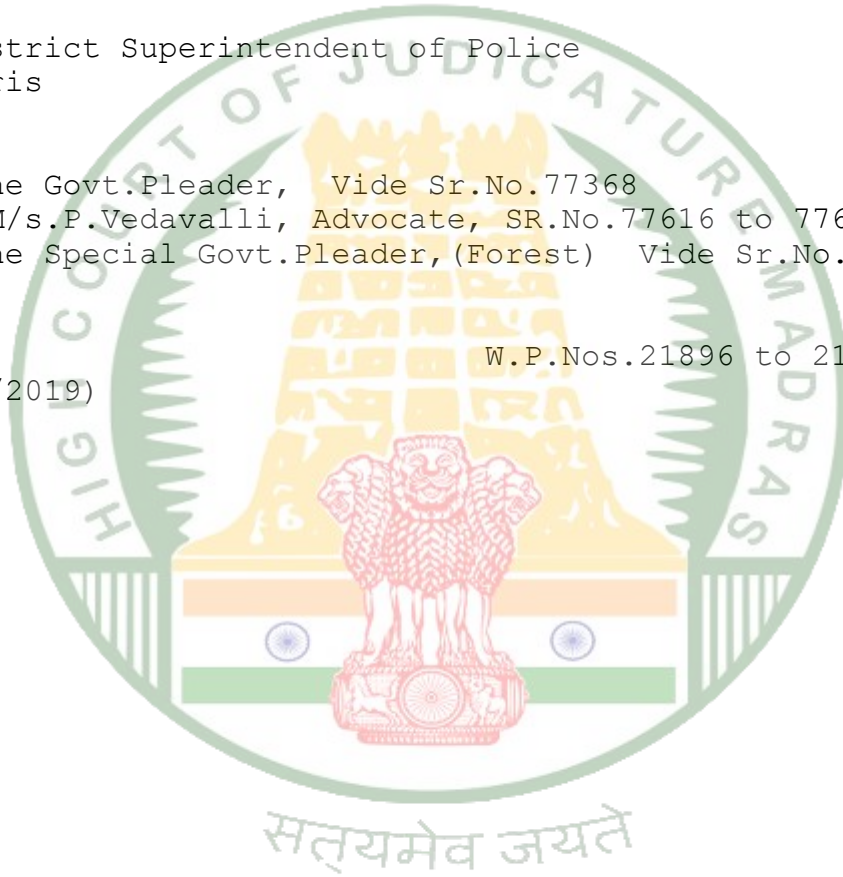
To

1. The Collector cum Regional
Transport Authority
Nilgiris
2. The Regional Transport Officer
Nilgiris
3. The District Forest Officer
Nilgiris
4. The District Superintendent of Police
Nilgiris

+1cc to the Govt.Pleader, Vide Sr.No.77368
+3CCs to M/s.P.Vedavalli, Advocate, SR.No.77616 to 77618
+1cc to the Special Govt.Pleader, (Forest) Vide Sr.No.77681

W.P.Nos.21896 to 21898 of 2011

Kak (28/09/2019)



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