

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.02.2019

CORAM
THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.No.29732 of 2011
and M.P.Nos.1 and 2 of 2011

K.Kaliamoorthy

....Petitioner

Vs

1.The Chief General Manager (Tech) and
Regional Officer, National Highway Authority
of India, No.1/54-28, Butt Road,
St.Thomas Mount, Near Kathipara Junction, Chennai 600 016.

2.M/s.Pondicherry-Tindivanam Tollway Ltd.,
6-3, 1186/5/A, III Floor, Amogh Plaza
Begumpet, Hyderabad-500 016.

3.M/s.Pondicherry-Tindivanam Tollway Ltd.,
Toll Gate KM 6+572, Arovil Post
Villupuram District, Tamil Nadu 605 101.

4.The Secretary to Government
Public Works Department, U.T. Of
Pondicherry, Pondicherry.Respondents

For Petitioner : Mr.Y.Shenthil Raj

For Respondents : Mr.P.Wilson Associates - for R1
Mr.N.Nithiananadam - for R2 and R3
Mr.Nambiselvam,AGP(Pondicherry)- for R4

Prayer : Writ Petition filed under Article 226 of the
Constitution of India seeking a writ of Certiorarified Mandamus
calling for the public notice published in "The Hindu" Newspaper
dated 04.10.2011 and the subsequent public notice dated NIL
relating to the collection of Toll Free in NH66 between Indira
Gandhi Square and Tindivanam fly over on the file of the third
respondent herein and quash the same insofar as the demand
related to the entire distance of 38.6 km instead for the
proportionate and actual distance of 3.30 km of New 4 lane road
NH66 used by the petitioner and to direct the third respondent
to fix the toll fee at Rs.309/-. Per month for the bus of the
petitioner, operating between, Indira Gandhi Square to
Sanjivarayanpet, Ozhugarai Commune, Pondicherry. (Prayer
amended vide order dated 11.12.2012 in M.P.No.3 of 2012 in WP
29732/11)

O R D E R

The present challenge is against the notification of the third respondent dated 04.10.2011 fixing various rates for the vehicles, which ply through the Toll Plaza, operated and controlled by the second respondent.

2. According to the petitioner, he being a local transport operator, uses only a small portion of the Highway and the route permit was given only for a particular destination. However, when the buses were operated, he was made to pay a huge toll fee, as if the petitioner was covering the entire distance for which the toll fee was originally fixed. Therefore, he would submit that the impugned notification is liable to be interfered with.

3. Learned counsel for the petitioner would further submit that as per the conditions for collection of toll fees, proper roads need to be laid, which has not been laid by the second respondent and therefore, they are not liable to pay the toll fee, as notified by the public notice dated 01.11.2011.

3. For this, the learned counsel for the second respondent would submit that the toll fee is fixed by the National Highways Authority of India viz., the first respondent herein and on the basis of fixation of toll fee, the same has been collected on the basis of various description of vehicles which pass through the Toll Plaza. The second respondent does not have any discretion in regard to the levy of toll fee in respect of the distance covered by various vehicles.

4. As regards the allegation of non-laying of road, this Court is of the view that, this being the writ petition of the year 2011, this Court cannot adjudicate such a dispute, which falls within the realm of verification of facts, whether proper roads have been laid or not. Such an exercise cannot be undertaken by this Court under Article 226 of the Constitution of India. Even otherwise, as rightly contended by the learned counsel for the second respondent that the toll fee has been fixed by the first respondent and no discretion is available for the second respondent to vary such toll fee in respect of different road users. That being the case, the challenge to the notification on the ground that the petitioner was using only a short distance covering the Toll Plaza and therefore he was not liable to pay the toll fee as prescribed in the notification, is legally not acceptable and it cannot be countenanced either on law or on facts.

5. Having regard to the facts and circumstances, this Court finds that the challenge to the impugned notification is without merits and substance and the writ petition stands dismissed. No

costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

1.The Chief General Manager (Tech) and
Regional Officer, National Highway Authority
of India, No.1/54-28, Butt Road,
St.Thomas Mount,
Near Kathipara Junction,
Chennai 600 016.

2.The Secretary to Government
Public Works Department,
Union Territory Pondicherry,
Pondicherry.

+1cc to Mr.Y.Shenthil Raj, Advocate, S.R.No.15185
+1cc to M/s.Wilson Associates, Advocates, S.R.No.15400
+1cc to Mr.N.Nithianandam, Advocate, S.R.No.14994
+1cc to the Government Pleader, Pondicherry, S.R.No.15207

W.P.No.29732 of 2011

GJ II(CO)

rrs 18/03/2019

सत्यमेव जयते
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