

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.04.2019
CORAM:
THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.11751 of 2019

K.Rajkumar

.. Petitioner

Vs.

1. The Secretary to Government,
Transport Department,
Fort St. George, Chennai - 09.

2. The Transport Commissioner,
Ezhilagam,
Chepauk, Chennai - 05.

3. The Joint Transport Commissioner,
North Chennai,
Ayanavaram, Chennai - 23.

4. The Joint Transport Commissioner
(Chennai South),
Bharathidasan Salai,
K.K.Nagar, Chennai - 78

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a writ of mandamus, directing the 1st respondent to regulate call taxis and autos run by OLA and UBER companies by considering the petitioner's representation dated 17.09.2018 within a reasonable time.

For Petitioner : Mr.K.Rajkumar
Party-in-person

For Respondents: Mr.E.Manoharan
Additional Government Pleader

O R D E R

(Order of this Court was made by S.MANIKUMAR, J.)

Mr.K.Rajkumar, an Auto driver, claiming in the field for past two decades, has sought for a writ of mandamus, directing the Secretary to Government, Transport Department, Chennai, 1st respondent herein, to regulate call taxis and autos run by OLA

and UBER companies by considering his representation dated 17.09.2018 within a reasonable time.

2. Supporting the prayer sought for, petitioner/party-in-person has contended that after considering the traffic congestion, vehicle maintenance cost, frequent hike in fuel price, Government have issued G.O.Ms.No.611 (Home (Transport-III) Department dated 25.08.2013, revising the rates of fare for contract carriage auto rickshaws plying in Chennai Metropolitan Area. As per the Government Order, rates of fare was fixed as Rs.12/- per Km; minimum fare fixed was Rs.25/- for the first 1.8 kilometers; the waiting charges as Rs.3.50 for every 5 minutes; and the night charges from 11.00pm to 5.00 pm as 50% etc. of the total fare calculated at the above rate.

3. Petitioner has further contended that in the State of Tamil Nadu, vehicles, such as cars, vans etc. are issued with tourist permit by the Government of Tamilnadu and that without any permission from the State Government or from any other authority, call taxis are permitted and they fix the tariff on their own whims and fancies. Corporate companies like OLA and UBER have entered into public services, and they not only canvass the auto drivers, but general public also, stating that they would provide service, at lower rates than the rates fixed by the Government. Thus the Corporate companies have indirectly entered into the public transport and want to monopolies the field .

4. Contending inter alia that it is an illegal act committed by corporate companies, petitioner is stated to have sent a representation dated 27.06.2017 under the Right to Information Act, 2005 and requested the authorities to furnish information, regarding the license / permission, to operate vehicles like, OLA and UBER by terming the vehicles as, OLA UBER Autos and call taxis in Chennai City.

5. Responding to the above request, Secretary to the Government, Home (Transport) Department, Chennai, the 1st respondent has sent a communication dated 10.07.2017 stating that there is no licence / permit, to the abovesaid corporate companies.

6. Further contending inter alia that the rates fixed by the said companies affect the rates of the auto drivers in general, and due to unauthorised plying of vehicles by the abovesaid companies, crimes like kidnapping, sexual harassments occur and that there is a necessity to regulate all call taxis and autos run by the abovesaid companies, petitioner has sent another representation dated 14.03.2017 to the Transport Commissioner, Chennai (South and North), which has been responded by the

Secretary to the Government, Home (Transport) Department, Chennai, the 1st respondent vide communication dated 15.05.2017, to take action on the said representation. Further contending inter alia that no action is taken, petitioner has sought for a writ of mandamus, as stated supra.

7. Heard K.Rajkumar, party-in-person and perused the materials available on record.

8. Vide G.O.Ms.No.611 (Home (Transport-III) Department dated 25.08.2013, Government have issued orders revising the rates of fare for contract carriage auto rickshaws plying in Chennai Metropolitan area. Government order reads thus.

Abstract

Motor Vehicles - Contract Carriage auto rickshaws - Enhancement of rates of fare for contract carriage auto rickshaws plying in Chennai Metropolitan area - Direction to State Transport* Authority - Notification under section 67 (1) (i) of the Motor Vehicles Act, 1988 (Central Act 59 of 1988) - Issued.

Home (Transport.III) Department

G.O.Ms.No.611

Dated: 25.08.2013

Read :

1. G.O.Ms.No,2939, Home, dated: 09.12.1981
2. G.O.Ms.No.1319, Home, dated: 27,08.1991
3. G.O.Ms.No.1111, Home, dated: 20.07.1993
4. G.O.Ms.No. 1651, Home, dated: 31.10.1995
5. G.O.Ms.No.1679, Home, dated: 05.11.1996
6. G.O.Ms.No.48, Home, dated: 10.01.2007

Read also:

From the Principal Secretary / Transport Commissioner,

Chennai lr.No.M3/38347/2012, dated: 25.07.2012 and 14.08,2013.

ORDER:

In the Government Order 6th read above, directions were previously issued for the; revision of fare for contract carriage auto rickshaws. Representations were received from various Trade Unions and Consumer Organisations to revise the rates of fare in view of the increase in fuel prices, vehicle maintenance costs, etc. Hence the Government have decided to revise the! rates of fare for contract carriage auto rickshaws plying in Chennai Metropolitan Area, keeping in view the above representations and accordingly, the Government direct' the State Transport Authority to fix the rates

of fare for contract carriage auto rickshaws plying in Chennai Metropolitan area as Rs,12/- per km, the minimum fare as Rs.25/- for the first 1.8 Kilometers, the waiting charges as Rs.3.50 for every 5 minutes and the night charges from 11.00 p.m.. to 5.00 a.m. as 50% etc. of the total fare calculated at the above rate,

2. The Government also direct that-

(i) the meters of the contract carriage auto rickshaws which are fitted, with Electronic digital meter shall be re-calibrated according to the revised fare structure within 45; days from the date of publication of the appended notification in the Tamil Nadu Government Gazette.

(ii) the revised rates of fare shall be printed in the form of auto rickshaw fare cards and supplied to all auto rickshaw/s plying in Chennai Metropolitan area. Fare cards / conversion tables shall be displayed inside the auto rickshaws so that these are clearly visible to all the travelling public until the fare meter are recalibrated according to the revised fare structure. The conversion table should be authenticated by the Regional Transport Officers

(iii) the contract carriage auto rickshaws plying in Chennai Metropolitan area shall be asked to fix the electronic digital fare meters combined with printer and Global Positioning System (GPS) for the purpose of tracking the vehicles in future.

(iv) the Regional Transport Officer shall ensure that the fare is collected according to the Government approved rates given in the conversion table / fare card.

(v) strict enforcement of the orders of the Government shall be made by the Transport officials and Police officials.

(vi) if any violation of the orders of the Government is noticed, the permit of the auto rickshaws will be cancelled and the vehicle will be seized.

3. Fixing of Electronic digital fare meters with Printer and GPS --

(i) The electronic digital fare meters with printer and GPS will be provided free of cost to the contract carriage auto Rickshaws plying in Chennai city on the date of publication of the appended notification in Tamil Nadu Government Gazette and the Government will bear the total cost of approximately

Rs.80.49 crores.

(ii) The installation of the electronic digital fare meters with printers and GPS will be, done by the Government as onetime measure only

(iii) The cost of Installation of electronic digital fare meters in autorickshaws registered' after the date of said notification and expenses towards repairs of all the fare meters shall be met by the auto rickshaw owners and not by the Government.

(iv) The expenditure for the one time supply of the: electronic digital fare meters with printers and GPS will be met from the Road Safety funds.

(v) A technical committee will be constituted to work out the details of the project and the technical feasibility to finalise the system for an auto enabled GPS monitoring system with helpline.

(vj) The tender process will be followed in the procurement of the electronic digital fare meters with printers and GPS with the specific tender condition to include GPS monitoring system of complaints against auto rickshaws including tampering. The process of procurement is to be completed on or before 28.02.2014.

4. Helpline Phone Number:-

helpline Phone number will be assigned for the use of the public which will be linked to the GPS monitoring system to register and monitor complaints if there is any violation by auto rickshaw) The helpline number should be prominently displayed in the autos along with the designation of the authority to whom complaints have to be made.

5. The appended Notification will be published in the Tamil Nadu Government Gazette Extraordinary, dated the 25th August 2013.

APPENDIX

NOTIFICATION

In exercise of the powers conferred by clause (i) of sub section (1) of section 67 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988) and in supersession of Home Department Notification No.II-2/HO/5295(V)/81 dated the 9th December 1981, published at pages 1 to 3 of of Part II-Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated the 10th December 1981, as subsequently amended and Home Department Notification No, II(2)/HO/51(a)/2007, dated the 10th January 2007 published on page 1 of Part 11-Section 2

of the Tamil Nadu Government Gazette Extraordinary, dated the 26th January 2007, the Governor of Tamil Nadu hereby directs the State Transport Authority, Tamil Nadu to fix the following rates of fare for contract carriage auto rickshaws plying within the Chennai Metropolitan area, namely:-

(i)	Minimum charge for first 1.8 Kilometers	:	Rupees twenty five only
(ii)	For each additional Kilometer.	:	Rupees twelve only.
(iii)	Detention charges	:	Rupees three and fifty paise only for every five minutes.
(iv)	Night service charges (between 11.00 p.m and 5.00- a.m) -	:	In addition to the total fare calculated at the above rate, an additional charge of fifty percent of the total fare.

(By Order of the Governor)

NIRANJAN MARDI

Principal Secretary to Government

9. Association of Auto drivers, seemed to have submitted a representation dated 14.03.2017 to the Secretary to the Government, Home (Transport) Department, Chennai, the 1st respondent. Responding to the above, vide proceedings in R.C.No.18808/M3/2017 dated 15.05.2017, 1st respondent has directed the Joint Transport Commissioner, Chennai North and South Zone, to be take action on the representation dated 14.03.2017. Thereafter, petitioner seemed to have sought for certain information from the Assistant Secretary and Public Information Officer, Office of the Transport Commissioner, Chennai.

10. Information sought for and reply of the Assistant Secretary and Public Information Officer, Office of the Transport Commissioner, Chennai, furnished to the writ petitioner, are as hereunder.

(i) For the query as to whether the Uber call taxi company has been given permission by the government and transport department to fix Rs.29 for 4 K.M and of so to furnish a copy thereof, the reply was that no permission has been granted to the Uber call

taxi company from this office to fix fare.

(ii) For the second question as to whether the Uber call Taxi Company has been given special permit to operate call Taxi in Chennai and its Sub-urbans, the said authority has replied that no such special permit has been issued.

(iii) For the third question as to whether the vehicles registered be operated as Tourist vehicles all over Tamil Nadu are being operation as Uber call Taxi and if any permit is being issued for operation as call Taxi, the said authority has replied that no separate permit has been issued for call taxi.

11. From the above it could be deduced that the said authority has categorically replied to three questions on the aspects of special permit and the rates of fare.

12. Instant writ petition is filed, as a public interest writ petition espousing the cause of auto drivers, who seemed to have been affected by the rates of fare, fixed by the companies, operating their vehicles for public. Though Government have revised the rates of fare for contract carriage auto rickshaws plying in Chennai Metropolitan Area, it is not open to the petitioner to contend that companies stated supra, can have their own rates of fare, which according to him is lower.

13. Posed with a question as to whether each vehicle operated as public service vehicle by OLA or UBER, as the case may be, should be issued with a special permit, the petitioner has no answer.

14. The owner of the vehicle, who intends to use the same for private purpose, does not require to obtain any permit. Whereas, the owner of the vehicle who intends to use the vehicle as a transport vehicle, he requires permission to be obtained from the transport authorities. Chapter V of the Motor Vehicles Act, 1988 deals with Control of Transport Vehicles. Relevant sections from Chapter V of the Motor Vehicles Act, 1988 are extracted hereunder.

66. Necessity for permits. - (1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the

vehicle is being used :

Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a contract carriage:

Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a good carriage either when carrying passengers or not :

Provided also that a goods carriage permit shall, subject to any conditions that may be specified in the permit, authorise the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him.

(2) The holder of a goods carriage permit may use the vehicle, for drawing of any trailer or semi-trailer not owned by him, subject to such conditions as may be prescribed:

Provided that the holder of a permit of any articulated vehicle may use the prime-mover of that articulated vehicle for any other semi-trailer.

(3) The provisions of sub-section (1) shall not apply - (a) to any transport vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise; to any transport vehicle owned by a local authority or by a person acting under contract with a local authority and used solely for road cleansing, road watering or conservancy purposes;

(b) to any transport vehicle used solely for police, fire brigade or ambulance purposes;

(c) to any transport vehicle used solely for the conveyance of corpses and the mourners accompanying the corpses;

(d) to any transport vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety;

(e) to any transport vehicle used for any other public purposes as may be prescribed by the State Government in this behalf;

(f) to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;

....

(i) to any goods vehicle, the gross vehicle weight of which does not exceed 3,000 kilograms;

(j) subject to such conditions as the Central

Government may, by notification in the Official Gazette, specify, to any transport vehicle purchased in one State and proceeding to a place, situated in that State or in any other State, without carrying any passenger or goods;

(k) to any transport vehicle which has been temporarily registered under section 43 while proceeding empty to any place for the purpose of registration of the vehicle;

(l) to any transport vehicle which, owing to flood, earthquake or any other natural calamity, obstruction on road, or unforeseen circumstances, is required to be diverted through any other route, whether within or outside the State, with a view to enabling it to reach its destination;

(m) to any transport vehicle used for such purposes as the Central or State Government may, by order, specify;

(n) to any transport vehicle which is subject to a hire-purchase, lease hypothecation agreement and which owing to the default of the owner has been taken possession of by or on behalf of, the person with whom the owner has entered into such agreement, to enable such motor vehicle to reach its destination; or

(o) to any transport vehicle while proceeding empty to any place for purpose of repair;

(4) Subject to the provisions of sub-section (3), sub-section (1) shall, if the State Government by rule made under section 96 so prescribes, apply to any motor vehicle adapted to carry more than nine persons excluding the driver.

67. Powers to State Government to control road transport. - (1) A State Government, having regard to - (a) the advantages offered to the public, trade and industry by the development of motor transport.

(b) the desirability of co-ordinating road and rail transport,

(c) the desirability of preventing the deterioration of the road system, and

(d) the desirability of preventing uneconomic competition among holders of permits, may, from time to time, by notification in the Official Gazette, issue directions both to the State Transport Authority and Regional Transport Authority-

(i) Regarding the fixing of fares and freight (including the maximum and minimum in respect thereof) for stage carriages, contract carriages and goods carriages :

(ii) regarding the prohibition or restriction, subject to such conditions as may be specified In the direction, of the conveying of long distance goods traffic generally, or of specified classes of goods carriages ;

(iii) regarding any other matter which may appear to the State Government necessary or expedient for giving effect to any agreement entered into with the Central Government or any other country relating to the regulation of motor transport generally, and in particular to its co-ordination with other means of transport and the conveying of long distance goods traffic.

Provided that no such notification in respect of the matters referred to in clause (ii) or clause (iii) shall be issued unless a draft of the proposed direction is published in the official gazette specifying there in a date being not less than one month after such publication, on or after which the draft will be taken into consideration and any objection or suggestion which may be received has, in consultation with the State Transport Authority, been considered after giving the representatives of the interests affected an opportunity of being heard.

(2) Any direction under sub-section (1) regarding the fixing of fares and freights for stage carriages, contract carriages and goods carriages may provide that such fares or freights shall be inclusive of the tax payable by the passengers or the consignors of the goods, as the case may be, to the operators of the stage carriages, contract carriages or goods carriages under any law for the time being in force relating to tax on passengers and goods.

69. General provision as to applications for permits - (1) Every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles :

Provided that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles;

Provided further that if it is proposed to use the vehicle or vehicles in two or more regions lying in

different States, the application shall be made to the Regional Transport Authority of the region in which the applicant resides or has his principal place of business.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification in the Official Gazette, direct that in the case of any vehicle or vehicles proposed to be used in two or more regions lying in different States, the application under that sub-section shall be made to the State Transport Authority of the region in which the applicant resides or has his principal place of business.

70. Application for stage carriage permit - (1) An application for a permit in respect of a stage carriage (in this Chapter referred to as a stage carriage permit) or as a reserve stage carriage shall, as far as may be, contain the following particulars, namely :-

(a) the route or routes or the area or areas to which the application relates ;

(b) the type and seating capacity of each such vehicle ;

(c) the minimum and maximum number of daily trips proposed to be provided and the time-table of the normal trips.

(d) the number of vehicles intended to be kept in reserve to maintain the service and to provide for special occasions;

(e) the arrangements intended to be made for the housing, maintenance and repair of the vehicles, for the comfort and convenience of passengers and for the storage and safe custody of luggage;

(f) such other matters as may be prescribed.

(2) An application referred to in sub-section (1) shall be accompanied by such documents as may be prescribed.

71. Procedure of Regional Transport Authority in considering application for stage carriage permit - (1) A Regional Transport Authority shall, while considering an application for a stage carriage permit, have regard to the object of this Act :

(2) A Regional Transport Authority shall refuse to grant a stage carriage permit if it appears from any time-table furnished that the provisions of this Act relating to the speed at which vehicles may be driven are likely to be contravened :

Provided that before such refusal an opportunity shall be given to the applicant to amend the time-

table so as to conform to the said provisions.

(3) (a) The State Government shall, if so directed by the Central Government having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of stage carriages generally or of any specified type, as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than five lakhs.

(b) Where the number of stage carriages are fixed under clause (a), the Government of the State shall reserve in the State certain percentage of stage carriage permits for the scheduled castes and the scheduled tribes in the same ratio as in the case of appointments made by direct recruitment to public services in the State.

(c) Where the number of stage carriages are fixed under clause (a), the Regional Transport Authority shall reserve such number of permits for the scheduled castes and the scheduled tribes as may be fixed by the State Government under subclause (b).

(d) After reserving such number of permits as is referred to in clause (c), the Regional Transport Authority shall in considering an application have regard to the following matters, namely :-

- (i) financial stability of the applicant ;
- (ii) satisfactory performance as a stage carriage operator including payment of tax if the applicant is or has been an operator of stage carriage service; and
- (iii) such other matters as may be prescribed by the State Government:

Provided that, other conditions being equal, preference shall be given applications for permits from -

- (i) State transport undertakings ;
- (ii) Co-operative societies registered or deemed to have been registered under any enactment for the time being in force ;
- (iii) Ex-servicemen ;
- (iv) any other class or category of persons, as the State Government may, for reasons to be recorded in writing, consider necessary.

72. Grant of stage carriage permit - (1) Subject to the provisions of section 71, a Regional Transport Authority may, on an application made to it under section 70, grant a stage carriage permit in

accordance with the application or with such modifications as it deems fit or refuse to grant such a permit :

Provided that no such permit shall be granted in respect of any route or area not specified in the application.

(2) The Regional Transport Authority, if it decides to grant a stage carriage permit, may grant the permit for a stage carriage of a specified description and may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely :-

(i) that the vehicles shall be used only in a specified area, or on a specified route or routes;

(ii) that the operation of the stage carriage shall be commenced with effect from a specified date ;

(iii) the minimum and maximum number of daily trips to be provided in relation to any route or area generally or on specified days and occasions ;

(iv) that copies of the time-table of the stage carriage approved by the Regional Transport Authority shall be exhibited on the vehicles and at specified stands and halts on the route or within the area ;

(v) that the stage carriage shall be operated within such margins of deviation from the approved time-table as the Regional Transport Authority may from time to time specify ;

(vi) that within municipal limits and such other areas and places as may be prescribed, passengers or goods shall not be taken up or set down except at specified points ;

(vii) the maximum number of passengers and the maximum weight of luggage that may be carried on the stage carriage, either generally or on specified occasions or at specified times and seasons;

(viii) the weight and nature of passenger's luggage that shall be carried free of charge, the total weight of luggage that may be carried in relation to each passenger, and the arrangements that shall be made for the carriage of luggage without causing inconvenience to passengers;

(ix) the rate of charge that may be levied for passengers' luggage in excess of the free allowance ;

(x) that vehicles of a specified type fitted with body conforming to approved specifications shall be used :

Provided that the attachment of this condition to a permit shall not prevent the continued use, for a period of two years from the date of publication of the approved specifications, of any vehicle operating

on that date ;

(xi) that specified standards of comfort and cleanliness shall be maintained in the vehicles;

(xii) the conditions subject to which goods may be carried in the stage carriage in addition to or to the exclusion of passengers ;

(xiii) that fares shall be charged in accordance with the approved fare table ;

(xiv) that a copy of , or extract from, the fare table approved by the Regional Transport Authority and particulars of any special fares or rates of fares so approved for particular occasions shall be exhibited on the stage carriage and at specified stands and halts ;

(xv) that tickets bearing specified particulars shall be issued to passengers and shall show the fares actually charged and that records of tickets issued shall be kept in a specified manner ;

(xvi) that mails shall be carried on the vehicle subject to such conditions (including conditions as to the time in which mails are to be carried and the charges which may be levied) as may be specified ;

(xvii) the vehicles to be kept as reserve by the holder of the permit to maintain the operation and to provide for special occasions ;

(xviii) the conditions subject to which the vehicle may be used as a contract carriage ;

(xix) that specified arrangements shall be made for the housing, maintenance and repair of vehicle ;

(xx) that any specified bus station or shelter maintained by Government or a local authority shall be used and that any specified rent or fee shall be paid for such use ;

(xxi) that the conditions of the permit shall not be departed from, save with the approval of the Regional Transport Authority ;

(xxii) that the Regional Transport Authority may, after giving notice of not less than one month , -

(a) vary the conditions of the permit ;

(b) attach to the permit further conditions :

Provided that the conditions specified in pursuance of clause (i) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometers, and any variation within such limits shall be made only after the regional transport authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof;

(xxiii) that the holder of a permit shall furnish

to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may from time to time prescribe ;

(xxiv) any other conditions which may be prescribed.

76. Application for private service vehicle permit. - (1) A Regional Transport Authority may, on an application made to it, grant a private service vehicle permit in accordance with the application or with such modification as it deems fit or refuse to grant such permit;

Provided that no such permit shall be granted in respect of any area or route not specified in the application.

(2) An application for a permit to use a motor vehicle as a private service vehicle shall contain the following particulars, namely;-

(a) type and seating capacity of the vehicle ;

(b) the area or the route or routes to which the application relates ;

(c) the manner in which it is claimed that the purpose of carrying persons otherwise than for hire or reward or in connection with the trade or business carried on by the applicant will be served by the vehicle ; and

(d) any other particulars which may be prescribed.

(3) The Regional Transport Authority if it decides to grant the permit may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely :-

(i) that the vehicle be used only in a specified area or on a specified route or routes ;

(ii) the maximum number of persons and the maximum weight of luggage that may be carried ;

(iii) that the Regional Transport Authority may, after giving notice of not less than one month -

(a) vary the conditions of the permit ;

(b) attach to the permit further conditions ;

(iv) that the conditions of permit shall not be departed from, save with the approval of the Regional Transport Authority;

(v) that specified standards of comforts and cleanliness shall be maintained in the vehicle ;

(vi) that the holder of the permit shall furnish to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may, from time to time, specify ; and (vii) such other conditions as may be prescribed.

80. Procedure in applying for and granting permits :- (1) An application for a permit of any kind may be made at any time.

(2) A Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66] shall not ordinarily refuse to grant an application for permit of any kind made at any time under this Act;

Provided that the Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66 may summarily refuse the application if the grant of any permit in accordance with the application would have the effect of increasing the number of stage carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 71 or of contract carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 74;

Provided further that where a Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66 refuses an application for the grant of a permit of any kind under this Act, it shall give to the applicant in writing its reasons for the refusal of the same and an opportunity of being heard in the matter.

(3) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or by altering the route or routes or area covered by it, or in the case of a stage carriage permit by increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit shall be treated as an application for the grant of a new permit ;

Provided that it shall not be necessary so to treat an application made by the holder of stage carriage permit who provides the only service on any route to increase the frequency of the service so provided without any increase in the number of vehicles ;

Provided further that, -

(i) in the case of variation, the termini shall not be altered and the distance covered by the variation shall not exceed twenty four kilometers ;

(ii) in the case of extension, the distance covered by extension shall not exceed twenty four

kilometers from the termini, & any such variation or extension within such limits shall be made only after the transport authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or extended or any part thereof. A Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-section (1) of section 66 may, before such date as may be specified by it in this behalf, replace any permit granted by it before the said date by a fresh permit conforming to the provisions of section 72 or section 74 or section 76 or section 79, as the case may be, and the fresh permit shall be valid for the same route or routes or the same area for which the replaced permit was valid.

Provided that no condition other than a condition which was already attached to the replaced permit or which could have been attached thereto under the law in force when that permit was granted shall be attached to the fresh permit except with the consent in writing of the holder of the permit.

(4) Notwithstanding anything contained in section 81, a permit issued under the provisions of sub-section (4) shall be effective without renewal for the remainder of the period during which the replaced permit would have been so effective.

84. General conditions attaching to all permits. - The following shall be conditions of every permit - (a) that the vehicle to which the permit relates carries valid certificate of fitness issued under section 56 and is at all times so maintained as to comply with the requirements of this Act and the rules made thereunder ;

(b) that the vehicle to which the permit relates is not driven at a speed exceeding the speed permitted under this Act ;

(c) that any prohibition or restriction imposed any fares or freight fixed by notification made under section 67 are observed in connection with the vehicle to which the permit relates ;

(d) that the vehicle to which the permit relates is not driven in contravention of the provisions of section 5 or section 113 ;

(e) that the provisions of this Act limiting the hours of work of drivers are observed in connection with any vehicle or vehicles to which the permit relates;

(f) that the provisions of Chapter X, XI and XII

so far as they apply to the holder of the permit are observed ; and

(g) that the name and address of the operator shall be painted or otherwise firmly affixed to every vehicle to which the permit relates on the exterior of the body of that vehicle on both sides thereof in a colour or colours vividly contrasting to the colour of the vehicle centered as high as practicable below the window line in bold letters.

85. General form of permits. - Every permit issued under this Act shall be complete in itself and shall contain all the necessary particulars of the permit and the conditions attached thereto.

86. Cancellation and suspension of permits.- (1) The Transport Authority which granted a permit may cancel the permit or may suspend it for such period as it thinks fit -

(a) on the breach of any condition specified in section 84 or of any condition contained in the permit, or (b) if the holder of the permit uses or causes or allows a vehicle to be used in any manner not authorised by the permit, or

(c) if the holder of the permit ceases to own the vehicle covered by the permit, or

(d) if the holder of the permit has obtained the permit by fraud or misrepresentation, or (e) if the holder of the goods carriage permit, fails without reasonable cause, to use the vehicle for the purposes for which the permit was granted, or

(f) if the holder of the permit acquires the citizenship of any foreign country :

Provided that no permit shall be suspended or cancelled unless an opportunity has been given to the holder of the permit to furnish his explanation.

(2) The Transport Authority may exercise the powers conferred on it under sub-section (1) in relation to a permit granted by any authority or person to whom power in this behalf has been delegated under sub-section (5) of section 68 as if the said permit was a permit granted by the Transport Authority.

(3) Where a Transport Authority cancels or suspends a permit, it shall give to the holder in writing its reasons for the action taken.

(4) The powers exercisable under sub-section (1) (other than the power to cancel a permit) by the Transport Authority which granted the permit may be exercised by any authority or person to whom such

powers have been delegated under sub-section (5) of section 68.

(5) Where a permit is liable to be cancelled or suspended under clause (a) or clause (b) or clause (e) of sub-section (1) and the Transport Authority is of opinion that having regard to the circumstances of the case, it would not be necessary or expedient so to cancel or suspend the permit if the holder of the permit agrees to pay a certain sum of money, than notwithstanding anything contained in sub-section (1), the Transport Authority may, instead of cancelling or suspending the permit, as the case may be, recover from the holder of the permit the sum of money agreed upon.

(6) The powers exercisable by the Transport Authority under sub-section (5) may, where an appeal has been preferred under section 89, be exercised also by the appellate authority.

(7) In relation to a permit referred to in sub-section (9) of section 88, the powers exercisable under sub-section (1) (other than the power to cancel a permit) by the Transport Authority which granted the permit, may be exercised by any Transport Authority and any authority or persons to whom power in this behalf has been delegated under sub-section (5) of section 68, as if the said permit was a permit granted by any such authority or persons.

87. Temporary permits. - (1) A Regional Transport Authority and the State Transport Authority may without following the procedure laid down in section 80, grant permits, to be effective for a limited period which shall, not in any case exceed four month, to authorise the use of a transport vehicle temporarily -

(a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or

(b) for the purposes of a seasonal business, or

(c) to meet a particular temporary need, or

(d) pending decision on an application for the renewal of a permit, and may attach to any such permit such condition as it may think fit :

Provided that a Regional Transport Authority or, as the case may be, State Transport Authority may, in the case of goods carriages, under the circumstances of an exceptional nature, and for reasons to be recorded in writing, grant a permit for a period exceeding four months, but not exceeding one year.

(2) Notwithstanding anything contained in sub-

section (1), a temporary permit may be granted thereunder in respect of any route or area where -

(i) no permit could be issued under section 72 or section 74 or section 76 or section 79 in respect of that route or area by reason of an order of a Court or other competent authority restraining the issue of the same, for a period not exceeding the period for which the issue of the permit has been so restrained ; or

(ii) as a result of the suspension by a Court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit in respect of that route or area, or there is no adequate number of such vehicles in respect of that route or area, for a period not exceeding the period of such suspension :

Provided that the number of transport vehicles in respect of which temporary permits are so granted shall not exceed the number of vehicles in respect of which the issue of the permits have been restrained or, as the case may be, the permit has been suspended.

15. Letter dated 10.07.2017 of the Assistant Secretary, Public Information Officer, Officer of the Transport Commissioner, Chennai, addressed to the writ petitioner is reproduced.

R.C.No.27360/M3/2017 Dt. 10.07.2017

Sir,

Sub: Certain information under the Right to Information Act,

Requested - Sent - Reg.

Ref: Application from Thiru.K.Rajkumar
S/o.V.R.Karuppasamy
dt. 27.06.2017.

The following details are given for your application under Right to Information Act.

Sl.No	Query	Reply
1.	Whether the Uber call taxi company has been given permission by the government and transport department to fix Rs.29 for 4 K.M and of so to furnish a copy thereof.	no permission has been granted to the Uber call taxi company from this office to fix fare.

Sl.No	Query	Reply
2.	whether the Uber call Taxi Company has been given special permit to operate call Taxi in Chennai and its Sub-urbans.	no such special permit has been issued.
3.	whether the vehicles registered be operated as Tourist vehicles all over Tamil Nadu are being operation as Uber call Taxi and if any permit is being issued for operation as call Taxi.	no separate permit has been issued for call taxi.

If you are willing to appeal on the above reply you may appeal to the Joint Transport Commissioner (Rules) O/o the Transport Commissioner, Chepauk, Chennai-5.

Sdxxx

Public Information Officer / Asst. Secretary

16. Petitioner is stated to have sent another application dated 23.06.2017 to the Assistant Secretary, Public Information Officer, Officer of the Transport Commissioner, Chennai, raising two questions, viz.,

(i). Whether the Uber call taxi company has been given permission by the govt, and transport depart. To fix Rs.5 per K.M

(ii). Whether the govt. and Transport department has been given permission to the Uber call Taxi company to function as call taxi company.

17. The above two questions have been answered by the Assistant Secretary, Public Information Officer, Officer of the Transport Commissioner, Chennai, as hereunder.

Sl.No	Query	Reply
1.	Whether the Uber call taxi company has been given permission by the govt, and transport depart. To fix Rs.5 per K.M	no such permission has been given to the Uber call taxi company by this office

Sl.No	Query	Reply
2.	Whether the govt. and Transport department has been given permission to the Uber call Taxi company to function as call taxi company.	no such permission has been issued.

18. Rates of fare are fixed by Government and accordingly, G.O.Ms.No.611 (Home (Transport-III) Department dated 25.08.2013, has been issued. From the averments it could be deduced that the above two transport companies have not fixed the rates of fare, over and above the rates fixed by the government and therefore, no permission is required from the government. Accordingly, the Assistant Secretary, Public Information Officer, Officer of the Transport Commissioner, Chennai, has sent a reply dated 10.07.2017 to the writ petitioner.

19. Not satisfied with the answer, petitioner sent another representation dated 25.07.2017, raising the following questions.

(i). whether the Uber call taxi company has obtained permission to function as call taxi company from the Government and Transport Commissioner office and if so to furnish a copy.

(ii). whether the OLA call taxi private company has obtained permission from the Government and Transport Commissioner Office to fix a fare of Rs.6 per K.M. and if so to furnish a copy thereof.

(iii). Whether the OLA call taxi company has obtained permission from the Government and Transport Commissioner office to collect fare through OLA Apps and if so to furnish a copy thereof.

20. All the three questions have been answered as hereunder.

Sl.No	Query	Reply
1.	whether the Uber call taxi company has obtained permission to function as call taxi company from the Government and Transport Commissioner office and if so to furnish a copy.	No files for such permission are maintained in the office

Sl.No	Query	Reply
2.	whether the OLA call taxi private company has obtained permission from the Government and Transport Commissioner Office to fix a fare of Rs.6 per K.M. and if so to furnish a copy thereof.	No files for such permission are maintained in the office
3.	Whether the OLA call taxi company has obtained permission from the Government and Transport Commissioner office to collect fare through OLA Apps and if so to furnish a copy thereof.	No files for such permission are maintained in the office

21. From the above it could be deduced that the petitioner has repeated, the earlier questions on the rates of fare fixed by UBER / OLA call taxis. An individual, who owns a vehicle and intends to use the same, as a transport vehicle, is required to get a permit from the competent authorities. Similarly, a company can also own vehicles and seek permission to operate the vehicles owned by them, for public transport purpose and in such cases, the companies have to necessarily obtain necessary permits for the vehicles.

22. It is not the case of the petitioner that vehicles operated by the companies, as transport vehicles do not have permits from the Regional or State Transport Authorities. There is no prohibition under any statute for any person or a company to own and operate vehicles, for transport purposes. Registration is done under the Companies Act and not by the Government or the Transport Commissioner. Thus, rightly, the Assistant Secretary and Public Information Officer, Office of the Transport Commissioner, Chennai, vide letter dated 21.08.2017, has sent a reply to the petitioner. Details of which are extracted supra.

23. Last representation of the writ petitioner is dated 12.10.2018 and the reply of the Assistant Secretary and Public Information Officer, Office of the Transport Commissioner,

Chennai in R.C.No.41359/M2/2018 dated 25.10.2018, is extracted.

Sl.No	Query	Reply
1.	In the Letter R.C.No.18808/M3/2017 of the Transport commissioner dated 15.05.2017, it has been stated that the application of the taxi auto drivers association dt. 14.03.2017 has been forwarded Chennai north and south zone directing him to take necessary action on the complaint and to send a detailed report to the principal secretary and transport commissioner send the letter R.C. No 18808/M3/2017 dt. 15.05.2017 has been forwarded to the joint commissioner Chennai north and south zone by the principal secretary/transport commissioner the orders and note made on the complaint of the auto taxi drivers association complaint dt.15.05.2017 by the joint transport commissioner, Chennai north and south zone may be furnished with your office seal.	No files have been maintained in the office in this regard.

Sl.No	Query	Reply
2.	The present status and post of Thiru. Muruganantham, joint commissioner (Rules) i/c whose name was mentioned in the letter R.C. No. 18808/M3/20178 Dt. 15.05.2017 may be informed under R.T.I Act 2005.	Joint transport commissioner, office of the transport commissioner, Chepauk, Chennai.

24. Going through the material on record, it is clear that the grievance of the petitioner and auto drivers, is that rates of fare fixed by the abovesiad companies is lower than what is fixed by the Government and that, it affects their avocation. On the facts and circumstances of the case, we can only observe that if the petitioner / auto owners or drivers, as the case may be, are also willing to operate their vehicles at the rates, on par with the rates offered by the companies, stated supra, passengers would also travel in their vehicles.

25. Merely because certain companies, engaged in public transport services are offering lesser rates and therefore, there should be a regulation by the respondents, cannot be accepted. Competitive rates are there in every business, trade and other activities. For the reasons stated supra, we do not find any merit in the writ petition warranting any direction to be issued to the respondents. Hence, writ petition is dismissed. No Costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Transport Department,
Fort St. George, Chennai - 09.

2. The Transport Commissioner,
Ezhilagam,
Chepauk, Chennai - 05.

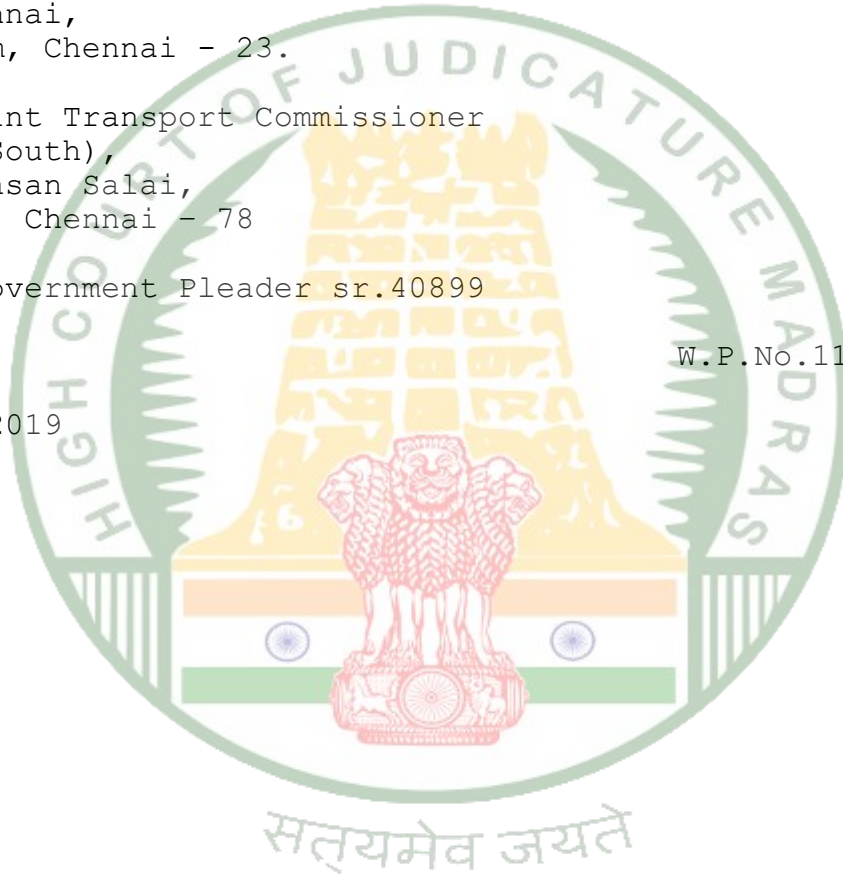
3. The Joint Transport Commissioner,
North Chennai,
Ayanavaram, Chennai - 23.

4. The Joint Transport Commissioner
(Chennai South),
Bharathidasan Salai,
K.K.Nagar, Chennai - 78

+1cc to Government Pleader sr.40899

W.P.No.11751 of 2019

nr 27/06/2019



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