

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.25290/2019 & WMP.No.24859/2019

S.Ravi

Petitioner

Versus

- 1.The Principal Secretary
Transport Corporation
Secretariat, St. George Fort
Chennai 600 009.
- 2.The Managing Director
Tamil Nadu State Transport Corporation
[Vizhupuram] Limited, Salamedu
Vizhupuram, Vizhupuram District 605602... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records relating to the order Letter No.7477/Thu.Me [Va]/Tha.A.Poka[V] Ltd/Ve/Ma/19 dated 24.04.2019 of the 2nd respondent, quash the same and consequently, direct the 2nd respondent to restore route No.186 A, 186B and 186C running between Vellore and Nagapattinam.

For Petitioner : Mr.S.T.Varadarajulu
For R1 : Mr.A.N.Thambidurai,
Spl.GP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

(1)By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government

Pleader accepts notice on behalf of the 1st respondent.

- (2) The petitioner is a resident of Ponnai Village and Post, Katpadi Taluk, Vellore District and he came forward to file the present writ petition, styled as a Public Interest Litigation, stating among other things that for the past 50 years, he used to visit Tirunallar frequently with his family and earlier, the 2nd respondent / Corporation operated bus services from Vellore to Nagapattinam in the form of three services and the said services were very useful to go to Nagapattinam, Nagoor, Velankanni and Thirunallar and all the four pilgrim Centres are important for Hindus, Muslims and Christians.
- (3) According to the petitioner, the said three bus services from Vellore to Nagapattinam were stopped from December 2018 and as a consequence, the residents in and around Vellore who intend to go to Nagapattinam, Nagoor, Velankanni and Thirunallar, were put to grave difficulty and hardship. The petitioner, feeling aggrieved by the stoppage of bus services, had submitted a representation dated 16.02.2019 for restoration of the bus services from Vellore to Nagapattinam, i.e., Route Nos.186A, 186B and 186C and similarly, one Seetharaman, has also sent E-Mail to the 2nd respondent to restore the said services and unfortunately, the 2nd respondent failed to address the said problem and also not responded to the said representations. Therefore, the petitioner was constrained to file WP.No.9662/2019, praying for issuance of a writ of mandamus, directing the respondents herein as well as the General Manager of the Tamil Nadu State Transport Corporation [Villupuram] Limited, Sathuvachary, Vellore-9 to restore the services in 186A, 186B and 186C, running between Vellore and Nagapattinam. The said writ petition was disposed of by this Court on 02.04.2019, directing the respondents 2 and 3 therein, to consider the petitioner's representation in accordance with law and pass appropriate orders within a period of four weeks from the date of receipt of a copy of that order.
- (4) Accordingly, the 2nd respondent herein, in compliance of the order, has passed an order dated 24.04.2019, which is impugned herein and the contents of the same would disclose that since it is long distance bus, the drivers and conductors were given 3 Attendance Registers and in respect of Transport Corporation at Kumbakonam Zone, 2 Attendance Registers were given and a sum of Rs.80/- had been paid and steps were taken in respect of the drivers and conductors employed in Vellore Zone also and it was refused to be accepted by Drivers and Conductors and they also filed a case in WP.No.28874/2018 and this Court, vide order dated 01.11.2018 made in WMP.No.33729/2018 in

WP.No.28874/2018, passed an order of ad-interim direction, directing that the petitioners shall not be asked to continue to work without any break which would be contrary to the provisions of section 13 of the Motor Transport Workers Act, 1961 and as such, the bus services are arranged in such a way that the duty time should not exceed 8 hours and as a consequence, the bus cannot be operated from Vellore to Nagapattinam. However, the Tamil Nadu State Transport Corporation is running two bus services from Vellore to Nagapattinam and that apart, from Myladuthurai to Nagapattinam, there is bus service, for every 15 minutes and the petitioner, challenging the legality of the said order, came forward to file the present writ petition.

(5) Mr.S.T.Varadharajulu, learned counsel for the petitioner would submit that as against three services, only two services are operated by the Tamil Nadu State Transport Corporation and therefore, the residents of Vellore and in and around places, who wish to go to pilgrim centres, namely, Nagoor , Nagapattinam, Velankanni and Thirunallar, are put to extreme hardship and grave difficulty and since the bus services run by the State Transport Corporation, are public oriented service, they are under obligation to provide the requisite and necessary bus services and especially, not to cause any inconvenience to the intended bus users - passengers and therefore, this Court may pass appropriate orders for restoration of the bus services in Route Nos.186A, 186B and 186C.

(6) Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the 1st respondent has drawn the attention of this Court to the earlier order passed by this Court dated 02.04.2019 in WP.No.9662/2019 filed by the petitioner and would submit that the Division Bench has also taken note of the fact that it cannot issue a specific direction that buses operated earlier and now discontinued, should once again be restored and therefore, directed the 2nd respondent to pass appropriate orders on the representation and the contents of the representation have also been taken into consideration in proper perspective and orders have been passed, especially, taking into consideration the interim order passed in WMP.No.33729/2018 in WP.No.28874/2018 dated 01.11.2018 and that apart, it is also pointed out that there are frequent bus services available between Mayiladuthurai and Nagapattinam once in 15 minutes and therefore, the intended bus users from Vellore can alight at Mayiladuthurai and take the connecting link to reach Nagapattinam and therefore, prays for dismissal of this writ petition.

- (7) This Court has carefully considered the rival submissions and also perused the materials placed before it.
- (8) The Division Bench of this Court, in the earlier order dated 02.04.2019 in WP.No.9662/2019, by taking into consideration the settled position of law, had observed that it cannot issue a specific direction that buses operated earlier and now discontinued, should again be restored and however, passed an order, directing the 2nd respondent to consider and dispose of the petitioner's representation on merits and in accordance with law, within the stipulated time and accordingly, the present impugned order came to be passed by the 2nd respondent herein.
- (9) In the impugned order, reasons are assigned as to the interim order dated 01.11.2018 passed in WMP.No.33729/2018 in WP.No.28874/2018 with regard to following the provisions of section 13 of the Motor Transport Workers Act, 1961, and the 2nd respondent has also pointed out that the bus services are operated through Tamil Nadu State Transport Corporation [Kumbakonam] Limited, between Vellore and Nagapattinam and that apart, even if the passengers alight at Mayiladuthurai, there are frequent services available from there to reach Nagapattinam and the petitioner wants a positive direction to direct the 2nd respondent to restore the bus services.
- (10) In COMMON CAUSE [A REGISTERED SOCIETY] VS. UNION OF INDIA AND OTHERS reported in 2008 [4] SCALE 848, the petitioner therein, after referring to the rising number of road accidents in the Country and also pointing out the defects in the licensing procedure, the training of the drivers, wanted a positive direction. The Hon'ble Apex Court, has held thus:-

'T. The justification given for judicial activism is that the executive and legislature have failed in performing their functions. Even if this allegation is true, does it justify the judiciary in taking over the functions of the legislature or executive? In our opinion, it does not, firstly because that would be in violation of the high constitutional principle of separation of powers between the three organs of the State, and secondly because the judiciary has neither the expertise nor the resources for this. If the legislature or executive are not functioning properly it is for the people to correct the defects by exercising their

franchise properly in the next elections and voting for candidates who will fulfill their expectations, or by other lawful means e.g., peaceful demonstrations and agitations, but the remedy is surely not by the judiciary in taking over the functions of the other organs.

U. The directives sought for in this petition require the expertise of administrative and technical officials, apart from financial resources. Not only should the Court not give such directives because that would violate the principle of separation of powers, but also because these are highly technical matters to be left to be dealt with by administrative and technical authorities who have experience and expertise in the matter.

W. Moreover, if once the Courts take upon themselves the task of issuing ukases as to how administrative agencies should function, what is there to prevent them from issuing directions, as to how the State Government or Central Government should administer the State and run the Country? In our opinion such an approach would not only disturb the delicate balance of powers between the three wings of the State, it would also strike at the very basis of our democratic polity which postulates that the governance of the country should be carried on by the executive enjoying the confidence of the legislature which is answerable and accountable to the people at the time of elections. Such an approach would in our opinion result in judicial oligarchy dethroning democratic supremacy.

X. In our opinion the Court should not assume such awesome responsibility even on a limited scale. The country can ill afford to be governed through Court decrees. Any such attempt will not only be grossly undemocratic, it would be most hazardous as the Courts do not have

expertise or resources in this connection. The judiciary is not in a position to provide solutions to each and every problem, although human ingenuity would not be lacking to give it some kind of shape or semblance of a legal or constitutional right, e.g., by resorting to Article 21.'''

- (11) In real sense, since the petitioner wants this Court to issue a positive direction as to how the 2nd respondent / Corporation should run its operation. In the considered opinion of this Court, it cannot issue any positive direction in this regard for the reason that running of the bus services also involve commercial interest and other factors. This Court is of the considered view that the impugned order gives tenable reasons as to why the prayer sought for by the petitioner cannot be given. It is not, as if, there is absolutely lack of bus service between Vellore and Nagapattinam for the reason that the impugned order would also disclose that as on date, two services are in operation and that apart, a passenger can alight at Mayiladuthurai and avail frequent bus services from Mayiladuthurai to Nagapattinam.
- (12) In the absence of any infirmity or error apparent on the face of the record, this Court is not in a position to interfere with the impugned order and having found no merits in the writ petition, this Court is not inclined to entertain this writ petition. Accordingly, the writ petition stands dismissed at the admission stage itself. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Principal Secretary

Transport Corporation

Secretariat, St. George Fort, Chennai 600 009.

2. The Managing Director

Tamil Nadu State Transport Corporation

[Vizhupuram] Limited, Salamedu

Vizhupuram, Vizhupuram District 605602.

+1cc to Mr.R.ST.Varadarajulu , Advocate SR.No. 77016

+1 cc to Government Pleader Sr.No. 77367

WP.No.25290/2019

A.SK(09/10/2019)