

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2019

Coram

The Honourable Mr. Justice M.DHANDAPANI

W.P.Nos.29620 and 29621 of 2004

Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd rep by its Managing Director,
Trichy

....Petitioner in both the petitions

vs.

1. State Transport Appellate Tribunal,
Chennai - 104.

2. Regional Transport Authority,
Karur

..... Respondents 1 & 2
in both the Writ Petitions

P. Sivaraman 3rd Respondent in WP No.29620 /2004

K. Kandasamy 3rd Respondent in WP No.29621/2004

Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari to call for the records of the first respondent in Appeal Nos.1040/2003 (in respect of WP No.29620/2004) and 1042/2003 (in respect of WP No.29621/2004 dated 23/04/2004) and quash the same.

For Petitioner : M/s Kala Ramesh

For 2nd Respondent : Mr.J. Ramesh, AGP

COMMON ORDER

The petitioner has filed the present writ petitions seeking to issue Writ Certiorari to call for the records of the first respondent in Appeal Nos.1040/2003 (in respect of WP No.29620/2004) and 1042/2003 (in respect of WP No.29621/2004)) and quash the same.

2. Aggrieved by the Order of the first respondent/State Transport Appellate Tribunal, Chennai - 104 in Appeal Nos.1040/2003 (in respect of WP No.29620/2004) and 1042/2003 (in respect of WP No.29621/2004), allowing the appeals by setting aside the Order of the Regional Transport Authority, Karur made in R.No.29780/A2/2003 dated 12.09.2003, rejecting the application for the grant of renewal of permit in respect of their Mini Bus bearing No.49/2978 (in respect of WP No.29620/2004) plying on the route Karur Sengunthapuram to Pugalur Railway Station and the Mini bus bearing No.TN 59/N 0388 (in respect of WP No.29621/2004) plying on the route Andankoil Pudur to Melapalayam, the State Transport Corporation filed the present Writ Petitions.

3. Heard both sides.

4. Though individual order is passed in appeals, since the facts are the one and same, both the writ petitions are disposed of by a Common Order.

5. The case of the petitioner is that the petitioner is the General Manager of the Tamil Nadu State Transport Corporation (Kumbakonam) Ltd and the Government of Tamil Nadu introduced a Mini Bus Scheme, which permitted running of the Mini Bus for the benefit of the rural public living in remote villages on the unserved sector upto the route length not exceeding 16 kms with an overlapping distance not exceeding 1 km on the route where stage carriages are operating. Subsequently, the Government issued Orders on 30.07.1990, permitting plying of mini buses for a distance not exceeding 4 kms in the approved area scheme (served sector) without altering the overall route length of 16 kms by G.O.Ms.No.1475 dated 28.10.1998. The said scheme was quashed by this Court in W.P.No.12476 of 1998 dated 30.01.1999, however, the Government, taking into account the need to ply mini buses efficiently for the benefit of the villagers, increased the overall route length of the Mini bus route to 20 kms and retained the same extent of 4 kms on the served sector.

6. The said Scheme was further modified by Notification dated 17.11.1999, in which, the overall route length of the Mini Bus was retained as 20 kms and the overlapping distance on the routes where stage carriages were operated was retained as 4 kms in the rural areas of the District.

7. The third respondent, in pursuance of the earlier scheme dated 07.10.1997, applied for a permit for plying Mini Bus bearing Nos.49/2978 (in respect of W.P No.29620 of 2004) from Karur Senguntapuram to Pugalur Railway Station (via) Muniappan Koil, Bypass Road, Atur, Nathamedu, Nochipalayam, Kuttakadai, Alampalayam, Thathampalayam, Palamapuram, M.G.R.

Colony, Moolimangalam and TN 59/N 0388 (in respect of WP No.29621 of 2004) from Andankoil Puthur to Melapalayam (via) Andankoil Pudur Pirivu, Muniappan koil, Bypass Road, Roundana, Ajantha Theatre, Kamarajar Salai, Thiala Silks, Light House, Mettu Street, Mariyamman Koil, Five Roads.

8. After confirming the grant of permit in the said route, the second respondent granted permit to the third respondent to ply his Mini Bus in the route, sought for in his application. The said application was valid from 15.09.1998 to 14.09.2003. The third respondent was plying his Mini Bus on the said route till the expiry of the permit although it was contrary to the modified Scheme dated 17.11.1999. Before the expiry of the permit, the third respondent applied to the second respondent for renewal of his permit on 06.08.2003 and by Order dated 12.09.2003, the second respondent rejected the said applications on the ground that the permit holder viz., third respondent has not come forward to switchover to the new scheme, surrendering the existing permit issued under the Old Scheme in accordance with the approved modified scheme in G.O.Ms.No.1538 Home (Transport III) Department dated 17.11.1999.

9. Aggrieved by the order of rejection of renewal application, the third respondent in WP No.29620 of 2004 filed an Appeal before the first respondent in Appeal No.1040/2003 and the third respondent in WP No.29621/2004 filed an Appeal before the first respondent in Appeal No.1042/2003 pursuant to the direction of this Court and the petitioner Corporation filed an impleading petition, impleading themselves as party respondents in the appeals and also to vacate the interim direction. Thereafter, the first respondent, by its order dated 23.4.2004 allowed the Appeals, holding that this Court, by Order in WP No.19067 of 1999 batch has protected the existing Mini bus permit as on the date of introduction of the modified scheme and that the letter of the Government dated 29.11.2000 gave the existing Mini Bus Operators only the option to switch over to the new scheme and also remitted the matter back to the second respondent with a direction to survey the route and renew the permit if the served sector and the unserved sector were within the prescribed limit. Aggrieved by the above order of the first respondent, the Transport Corporation filed the above two Writ Petitions.

10. The learned counsel for the petitioner would submit that the issue involved, is already covered by the decision of this Court in WP No.29620 of 2004 dated 23.08.2018 and the relevant portion of the order is extracted hereunder:-

9. The petitioner Corporation cannot be said to be aggrieved by the order of the 1st respondent impugned in

this writ petition. The main grievance of the petitioner Corporation is that the petitioner corporation has been facing severe loss of revenue due to non following of the scheme, 1999 by the mini bus operators like the 3r respondent. This court failed to understand as to how this contention is acceptable. As per the old scheme, the 3rd respondent has been operating mini bus with an overlapping distance of not exceeding 1 km on the served sector. Whereas under the new scheme, the petitioner has been permitted to operate mini bus with an overlapping distance of not exceeding 4 km on the served sector where the petitioner corporation operates. When such being the position, in the considered opinion of this court, it would not cause any revenue loss to the petitioner corporation. Further, the contention of the petitioner Corporation that the revenue of the corporation has been seriously affected on account of non operation of mini bus by the 3rd respondent up to 20 kms on the unserved sector as stipulated under the new scheme. If at all, the 3rd respondent does not operate the mini bus up to length of 20 kms on unserved sector, it is for the State Government to take appropriate action. It is not for the Tamil Nadu State Transport Corporation (Kumbakonam) Limited to raise such objection. At this juncture, it has been brought to the notice of this court that subsequently, permit granted to the 3rd respondent got renewed periodically and in the year 2011 another new scheme also came into effect by which 1999 Scheme got superseded. In the above circumstances, this court find no illegality or irregularity in the order passed by the 1st respondent. Thus, this court does not find any merit in the writ petition and the same deserves only to be dismissed.

10. In the result, this writ petition is dismissed. No costs. Consequently, connected WMP is closed.

