

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2019

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. 27927 of 2018
and
W.M.P. 32487 of 2018

M.Chinnathambi

... Petitioner

Vs

1. The Secretary,
Regional Transport Authority,
Perambalur.

2. The Motor Vehicles Grade-I,
Regional Transport Office,
Perambalur.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records of the 1st respondent in R.No.28665/A3/2017, dated 28.11.2017 and to quash the same.

For Petitioner : Mr.R.Gokulakrishnan

For Respondents : Mr.R.Govindasamy,
Special Government Pleader

O R D E R

This Writ Petition has been filed challenging the order passed by the 1st respondent suspending the petitioner's mini bus permit for the period of 7 days under Sec.86(1) of the Motor Vehicles Act, 1988.

2. The impugned order has been passed against the petitioner on the ground that the permit was given to the petitioner to ply the mini bus from Perambalur Old Bus Stand to Sirukanpur Outer via Malaiyappa Nagar, Ayyalur, Siruvachur Koil, Vilamuthur Tank Nirmala Nagar, instead of that, the petitioner has operated the bus from Siruvachur via Collector Office, Palakkarai in National Highways-45. That apart, at the time of inspection, the petitioner has not produced the license, and the pollution control certificate. Earlier, a show cause notice was issued to the petitioner, for which, the petitioner has sent a

reply admitting that on the date of inspection, due to heavy rain, the petitioner could not operate the bus in the original route, but he has given an undertaking that in future, he will operate the bus as per the permit condition. As the explanation was not satisfactory, the 1st respondent had passed the impugned order suspending the petitioner's permit for the period of seven days by an order dated 28.11.2017.

3. Challenging the said order, the petitioner has filed an appeal before the State Transport Appellate Tribunal on 27.09.2018, and the said appeal has been returned on the ground that the appeal has been filed beyond the period of limitation. In the above circumstances, there is no provision for condoning the delay in filing the appeal, the petitioner has filed the present Writ Petition challenging the said order.

4. Mr.R.Gokulakrishnan, learned counsel appearing for the petitioner submitted that the petitioner is operating the bus as per the permit, but only on the date of inspection, due to heavy rain, the petitioner could not operate the bus in the regular permit route. He has further submitted that the impugned order has been passed with a malafide intention, and on the instigation of A rival bus operator, he was imposed with the punishment for eight times. The learned counsel further submitted that the petitioner has already given an undertaking before the authority that in future, he will not violate the permit condition. Hence, instead of suspending the license, suitable fine amount may be imposed under Sec.86(5) of Motor Vehicles Act.

5. Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents submitted that it is an admitted fact that the petitioner has violated the condition and operating the mini bus in the National Highways, thereby causing inconvenience to the general public. The petitioner himself has admitted his guilt stating that he is a chronic defaulter and as many as eight times, he was imposed the punishment and his request to impose minimum punishment need not be considered.

6. I have considered the rival submissions and perused the records carefully.

7. It is an admitted case that the petitioner has violated the permit condition, and in the explanation submitted by the petitioner, he has admitted the violation. On perusal of the reply given by the petitioner, it has been stated that the punishment has been imposed at the instigation of one K.M.Jagannathan, who was a rival bus operator and as many as 8 times, the action has been taken against the petitioner stage carriage.

8. Considering the fact that the petitioner himself has admitted his guilt, but alleged malafide against the authorities that the action has been taken at the instigation of Jagannathan, and the said allegation was not substantiated with the materials. Hence, I find there is no illegality in the order

passed by the 1st respondent. Therefore, the present Writ Petition is liable to dismissed.

9. The learned counsel appearing for the petitioner would submit that now, the petitioner is apprehending, the authorities may detain the vehicle for more than 7 days. As the suspension was only for seven days, the 1st respondent is directed to impose the order of suspension only for the period of one week.

10. In the result, the Writ Petition stands dismissed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Secretary,
Regional Transport Authority,
Perambalur.
2. The Motor Vehicles Grade-I,
Regional Transport Office,
Perambalur.

+lcc to Mr.R.Gokulakrishnan, Advocate, S.R.No. 1777

+lcc to the Government Pleader, S.R.No. 2314

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W.P. 27927 of 2018

and

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VBA (CO)

GN (15/03/2019)

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