



WEB COPY

W.P(MD)Nos.17103 and 17104 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P(MD)Nos.17103 and 17104 of 2019

and

W.M.P.(MD)Nos.13639 and 13640 of 2019

M.Rajendran ... Petitioner (in W.P(MD)No.17103 of 2019)

R.Gobinath ... Petitioner (in W.P(MD)No.17104 of 2019)

Vs.

1.The Regional Transport Authority,
Theni District, Theni.

2.The Regional Transport Officer,
Office of the Regional Transport Office,
Theni District. ... Respondents (in both petitions)

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, to direct the respondents to allow the petitioner's Mini Buses bearing registration No.TN 60 -D 8365 and TN 60 D 8357 and TN 60- B 5252 and TN 60 E 2203 respectively, from Theni New Bus Stand instead of (Housing Board Colony Ration Shop) to RMTC Colony as per Transport Commissioner's Circular in R.No.90919/E2/2000, dated 29.11.2000.

(in both petitions)

For Petitioner : Mr.S.S.Radhagopalan,
for Mr.A.C.Asaithambi.

For Respondents : Mrs.J.Padmavathidevi,
Special Government Pleader.
(Both Petitions)

COMMON ORDER

These Writ Petitions have been filed to direct the respondents to allow the petitioners Mini Buses bearing registration Nos.TN 60 -D 8365, TN 60 D 8357, TN 60- B 5252 and TN 60 E 2203, respectively from Theni New Bus Stand instead of (Housing Board Colony Ration

<https://hcservices.ecourts.gov.in/hcservices/>



Shop) to RMTC Colony as per Transport Commissioner's Circular in R.No.90919/E2/2000, dated 29.11.2000.

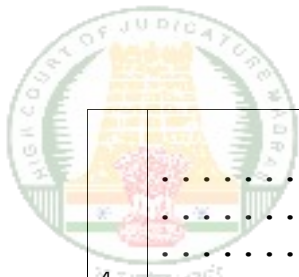
2.The petitioners are mini bus operators. They were permitted to run mini buses between Theni Housing Board Colony to RMTC Colony. According to the petitioners, Theni New Bus stand is situated 100 meters away from the Housing Board Colony ration shop. Therefore, he sought permission to enter the bus stand as per letter issued by the Transport authority in letter R.No.90919/E2/2000, dated 29.11.2000 and the same reads as under:

"Permitting of Mini buses to enter into bus stands: Mini buses may permitted to go inside the bus stands so that the benefit of the scheme reaches the villagers in full subject to the condition that the over lapping distance of 4 kms should not exceed in the served sector."

3.As per the above decision of the Transport Authority, the mini buses may be permitted to go inside the bus stand subject to the condition that the overlapping distance does not exceed four kilometers in the served sector. The petitioner filed an application for grant of permit upto the new bus stand, but permission was not granted so far. Hence he was not permitted inside the bus stand, in view of the letter issued by the transport authority. Aggrieved over the same, he has come before this Court seeking a direction, directing the respondents to permit him to enter into the Theni New Bus Stand.

4.The learned Special Government Pleader vehemently opposed the extension of mini bus service upto Theni New Bus stand and she has filed her counter stating that the distance between the Housing Board Colony Ration Shop to Theni New Bus Stand is 1 kilometer and therefore, a total overlapping distance is five kilometers. If the petitioner is permitted to enter the new bus stand, he will be exceeding four kilometers, therefore, permission should not be granted.

5.As per the declaration given by G.O.Ms.No.1535 Home (Transport -III) dated 17.11.1999, rural area and urban area are defined as under:-



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Maximum and minimum number of vehicles proposed to be operated in each route by the State Transport Undertaking to the exclusion, complete or partial or otherwise of other person

Mini Buses (Private)
Maximum ... 250
Minimum ...

Semi Saloon
Single dock

a) Maximum number - 728
b) Mini b) Minimum number 367 -

Ordinary/ Town Bus Mini Bus
Passenger/
Mofussil

c) Type

Goods Carriage

- -

80	100	25
30		
30	40	6

d) Seating capacity

Express

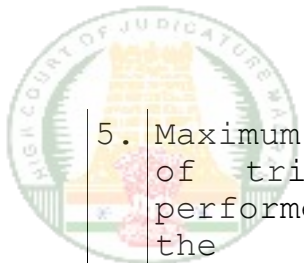
Maximum - 60
Minimum - 30

To the complete exclusion of other persons other than the State Transport Undertakings of other States, the existing permits of small operators protected under the Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992 (Tamil Nadu Act 41 of 1992) the permits of stage carriage operators covered by Inter-State Agreements and the permits of mini bus operators to operate in the rural areas of the District where no stage carriage service and provided upto a route length not exceeding 20 kms with overlapping distance not exceeding 4 kms on the routes where stage carriages are operating.

Explanation I - for the purpose of this scheme "Rural area" means any are not included in -

i) Chennai Metropolitan Development as notified under the law for the time being in force:

ii) Any Municipal Corporation



5. Maximum and minimum number of trips proposed to be performed in each route by the State Transport Undertaking to the exclusion, complete or partial or otherwise of other persons.	Maximum Trips -7,450 Minimum Trips - 3,587 To the complete exclusion of other persons other than the State Transport Undertaking of other States, the existing permits of small operators protected under the Tamilnadu Motor Vehicles (Special Provisions) Act 1992 Tamilnadu Act of 41 of 1992 the permits of stage carriage operators covered by Inter-State Agreements and the permits of mini bus operators to operate in the rural areas of the District where no stage carriage services are provided upto a route length not exceeding 20 kms. With an overlapping distance not exceeding 4 kms on the routes where stage carriages are operating. Explanation I - for the purpose of this scheme "Rural are means any are not included in - i) Chennai Metropolitan Development as notified under the law for the time being in force: ii) Any Municipal Corporation iii) Any Municipality; and iv) Any Township constituted under any law for the time being in force Explanation II- Overlapping distance includes urban areas also.
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6. According to the same, overlapping distance includes urban areas also. It is the contention of the Government that once it includes urban areas also and the route of urban area shall be treated as overlapping distance. In that view of the matter, the overlapping distance may exceed four kilometers i.e upto 5 kilometers.

7. As per the request of the petitioner, this Court in order to ascertain whether any service of stage carriage operators available between housing board colony ration shop and Theni new bus stand and



also the distance between two points, appointed an Advocate Commissioner. The Commissioner also inspected the above mentioned two points in the presence of the petitioners and also the Transport Department.

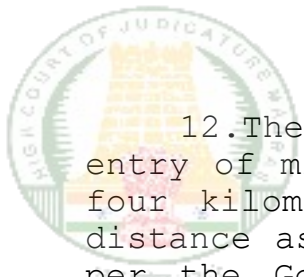
8. According to Advocate Commissioner, the route from the Housing Board Colony Ration Shop to Periyakulam Road Junction on the Western side of Theni New Bus Stand, the distance is 940 meters. It is an unserved sector, as in this route, no buses are operated by State Transport Corporation or private stage carriage operators. The route from Periyakulam Road junction to Theni New Bus Stand, the distance is 108 meters and it is served sector, as in this route, incoming, outgoing buses from Theni bus stand are operated.

9. It is pertinent to explain what is 'overlapping distance'.

Column 4 of the Government Order G.O.Ms.No.1535 Home (Transport - III) 17/11/1999, explains the 'overlapping distance' as the routes where the mini buses are permitted to operate overlapping the route permit granted to stage carriage operators. When the stage carriage operators are available in a particular route, that is called as 'served sector' and in that, the mini bus operators are permitted to overlapping a distance of four kilometers. The 'unserved sector' is explained as the rural areas of the district, where no transport facilities and none of the stage carriage operators are providing service. In those unserved sector mini bus operators are permitted a route length of twenty kilometers.

10. In that view of the matter, we have to approach the issue as to whether there are transport service by stage carriage operators is available or no services are available. At the risk of repetition it should be noted that when the services of stage carriage operator is available, it is called served sector and mini bus permit cannot be granted except for the overlapping distance of four kilometers in the served sector. When there are no services of stage carriage operators are available, that should be considered as unserved sector and as noted earlier mini buses can be permitted to operate a distance of 20 kilometers.

11. In that view of the matter, in the present writ petition, the petitioners are plying from Housing Board Colony to Theni new bus stand i.e extent of 940 meters in unserved sector and 100 meters in served sector. The total length of the route granted to the petitioner is 3.9 kilometers in served sector and 2.7 kilometers in unserved sector. Therefore, travelling further 940 meters in the unserved sector will not at all affect the respondents. The dispute is over the grant of permit for 108 meters in the served sector, which exceeds four kilometers limit provided under the above mentioned Government Order (2.9 kilometers + 3.9 kilometers + 108 meters comes to 4 kilometers and 8 meters).



12.The letter issued by the Transport Commissioner permits entry of mini buses inside the bus stand provided it is within the four kilometers. In the instant case, eight meters is negligible distance as the mini buses can be operated upto four kilometers, as per the Government order. Therefore, I am inclined to grant the relief to the petitioner. Accordingly, the respondents are directed to permit the petitioner to enter the Theni New Bus Stand from Housing Board Colony Ration Shop.

13.In the result, these writ petitions are ordered. No costs. Consequently, connected miscellaneous petitions are closed.

14.At this point of time, this Court considers it fit to mention the following:

Sole objective of the scheme is to serve the people of the rural and remote areas where transport facilities are not available. In served areas, even though transport facilities are available, there is no frequency of service. Further more people suffer due to non stoppage of buses. Village people cannot afford to travel by taxis, autos or any other luxury vehicles because of their financial conditions. In those areas the mini buses will fill up the vacuum. Even in those served sectors where there is no frequent service, no stopping of mofussil or long distance buses, mini buses should be permitted to provide transport facilities to the commuters and save them from the exploitation. This being a social welfare scheme, the State Transport corporations shall not venture to defeat the rights of the mini bus operators by operating their buses in the 'unserved sector' and make it as a 'served sector'. At the same time, mini bus operators shall not operate beyond 4 kms of overlapping distance defined in the scheme making a dent in the revenue of stage carriage operators. The business shall be complementing each other and not competing each other. Therefore, permission granted to the petitioner will serve the avowed object of transporting people of that area, who are walking down to bus stand.

15. The petitioners shall pay a sum of Rs.25,000/- as additional remuneration to the Advocate Commissioner.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

das



W.P(MD)Nos.17103 and 17104 of 2019

To

1.The Regional Transport Authority,
Theni District, Theni.

2.The Regional Transport Officer,
Office of the Regional Transport Office,
Theni District.

Copy to:

Mr.V.Ilanchezian, Advocate Commissioner,
No.50, Law Chamber,
Madurai Bench of Madras High Court, Madurai.

+2 cc Mr.A.C.ASAITHAMBI ,Advocate, SR.No. 93855,93856
+1cc to M/s.Special Government Pleader,SR.No. 94234

W.P(MD)Nos.17103 and 17104 of 2019
and
W.M.P. (MD)Nos.13639 and 13640 of 2019

22.10.2019

KK/SAR/04.11.2019/7P-7C/