



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.17867 of 2019

WEB COPY

K.R.Udhayam

... Petitioner
vs.

1.The Principal Secretary,
rep. by its Government of Tamil Nadu
Transport Department
Secretariat, Chennai.

2.The Commissioner
Transport Department
Office of the Commissioner Transport Department
Chepauk, Chennai-05.

3.The Joint Commissioner
Transport Department
Office of the Commissioner Transport Department
Chepauk, Chennai-05.

4.The Regional Transport Officer,
Madurai Central,
Madurai.

... Respondents

PRAYER:

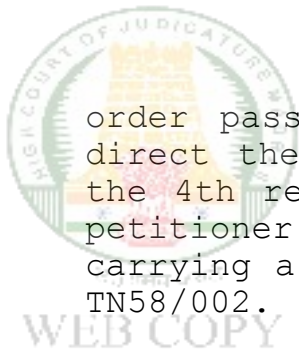
Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 3rd respondent on 19.07.2019 in his proceeding No.Aa.Thi.Mu.No.23732/U3/2019 and quash the same further direct the 2nd and 3rd respondent to consider the proceedings of the 4th respondent in Na.Ka.No.17381/,3/2019 dated 06.06.2019 to grant authorization to the petitioner instead of his deceased father K.S.S.A.Ramasamy to carrying a business on operation of Emission Centre code and ID No. TN58/002 within a time stipulated by this Court.

For Petitioner : Mr.A.P.Muthupandiyan

For Respondents : Mr.J.Gunaseelan Muthaiah,
Addl. Govt. Pleader

ORDER

This writ petition has been filed challenging the impugned
<https://hcservices.ecourts.gov.in/hcservices/>



order passed by the 3rd respondent, dated 19.07.2019 and further direct the 2nd and 3rd respondents to consider the proceedings of the 4th respondent, dated 06.06.2019 to grant authorization to the petitioner instead of his deceased father K.S.S.A.Ramasamy to carrying a business on operation of Emission Centre Code and ID No. TN58/002.

2.The petitioner is a partner of partnership firm called Samy Automobiles. The said Samy Automobiles was running an Emission Testing Centre. The second respondent in his proceedings 44854/C3/2014, dated 01.09.2011 renewed the authorization given in favour of Samy Automobiles for the period between 27.09.2014 to 26.09.2019. Since the period of permission is expired on 26.09.2019, the petitioner made an application for renewal on 19.09.2019. The same was received by the respondents on 23.09.2019. However, based on a representation given on 06.06.2019, the third respondent refused to transfer the permit in favour of the legal heirs and directed them to surrender all the certificates (ARAI, Invoice, Calibration) before the Regional Transport Officer, Madurai. The said order dated 19.07.2019 is under challenge.

3.According to the petitioner, the permit was granted to a firm, in which, the petitioner and others are partners. The impugned order proceeds on the basis that the petitioner's father was a Proprietor of the Emission Testing Centre and that it cannot be transferred in favour of the legal heirs. Since permission was granted in favour of the partnership firm namely Samy Automobiles, according to the petitioner, the impugned order is not fair.

4.On notice, the respondents filed a counter affidavit, wherein, in paragraph No.7, it is stated that there is no bar for issuance of fresh authorization for Pollution Testing Centre as on date, if the petitioner has satisfied TNMVR Rule 116-B-7(a) and without approaching the authorities, the petitioner has approached the High Court and therefore, sought for dismissal of the writ petition.

5.I have considered the factual submissions.

6.Admittedly, the petitioner was inducted as a partner of the firm namely Samy Automobiles. After the death of his father, he applied for renewal of his permit in the name of the partnership firm, whereas, the impugned order says that it was given in favour of an individual and that it cannot be transferred in favour of the legal heirs. Such a finding is wrong. In view of the same, the impugned order passed by the 3rd respondent, in his proceeding No.Aa.Thi.Mu.No.23732/U3/2019 dated 19.07.2019 is set aside. As directed by the third respondent, the petitioner is directed to resubmit the entire application with connected documents for renewal within a period of two weeks from the date of receipt of a copy of the receipt of such renewal application, the third



respondent is directed to process the same, within a period of four weeks therefrom.

6. Accordingly, the writ petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS)

vs

To

1. The Principal Secretary,
The Government of Tamil Nadu
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2. The Commissioner
Transport Department
Office of the Commissioner Transport Department
Chepauk, Chennai-05.

3. The Joint Commissioner
Transport Department
Office of the Commissioner Transport Department
Chepauk, Chennai-05.

4. The Regional Transport Officer,
Madurai Central,
Madurai.

1 CC to M/s.A.P. MUTHU PANDIAN, Advocate (SR-97949[F] dated
13/11/2019)

W.P. (MD) No.17867 of 2019

13/11/2019

_KK/SAR/05.12.2019/3P-6C/