

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM :

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P. No. 1902 of 2020
and
W.M.P. No. 2227 of 2020

K.S.Senthilnathan

... Petitioner

Vs

1.The Regional Transport Officer,
Erode East,
Erode.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
Erode Division,
Erode.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent in order dated 12.02.2019 in R.No.53221/A2/2018 as arbitrary, illegal and quash the same.

For Petitioner	:	Mr. R.Shase
For Respondent - 1	:	Mr. A.Aruldoss Government Advocate
For Respondent - 2	:	Mr. A.Sundaravadhanan Standing Counsel

O R D E R

This Writ Petition has been filed challenging the proceedings of the first respondent dated 12.02.2019, rejecting the representation made by the petitioner.

2. The case of the petitioner is that he holds a stage carriage permit to ply a bus in Erode - Vilakethi road. The grievance of the petitioner is that the second respondent is also plying the bus in the same route without any valid permit and thereby, the petitioner is suffering heavy loss. The petitioner gave a representation to the first respondent and the first respondent by proceedings dated 12.02.2019, rejected the

representation made by the petitioner on the ground that the second respondent is operating the vehicles with valid permit and on the basis of the tentative timings fixed under proviso to Rule 248 of the Tamil Nadu Motor Vehicle Rules, 1989.

3. Learned counsel for the petitioner submitted that as per Rule 248 of Tamil Nadu Motor Vehicle Rules, 1989, the parties will have to be called for meeting and the timings will have to be fixed so that both the petitioner and the second respondent can operate in the same road without causing hindrance to each other and the respondent has straight away rejected the representation made by the petitioner.

4. Per contra, learned counsel appearing on behalf of the second respondent submitted that this Writ Petition is not maintainable since the petitioner has an alternative remedy under Section 89 of the Motor Vehicles Act, 1988 and only an appeal can be filed before the Appellate Tribunal.

5. This Court has carefully considered the submissions made on either side and perused the entire materials available on record.

6. The impugned order was passed on 12.02.2019 and the petitioner has chosen to challenge this order only this year. At this stage, the petitioner should not be driven to file an appeal against the order passed by the first respondent. At the same time, this Court is also not inclined to interfere with the order passed by the first respondent. However, in the interest of justice, the first respondent must call both the petitioner and the officials of the second respondent and conduct a meeting in order to ensure that there is an adjustment on the timings during which the bus can be operated. If the schedule of time is fixed for the petitioner and the second respondent, the same will not cause any confusion and both of them can ply in the road without causing loss to each other. Such a process is contemplated under Rule 248 of Tamil Nadu Motor Vehicles Rules, 1989.

7. In view of the above, this Writ Petition is disposed of with a direction to the petitioner to make a fresh representation to the first respondent to call for meeting with the second respondent in order to fix schedule of timing. The first respondent, on receipt of the representation, shall order notice to the second respondent and thereafter, hear both the parties and fix the schedule of timings for the petitioner and the second respondent. Once, such a decision is taken, both the petitioner and the second respondent can ply their vehicle in

the same road without any confusion and if required, they can also approach the first respondent for any modification of the timings also in future. The first respondent shall take a decision in that regard within a period of four weeks from the date of representation from the petitioner after giving notice to the second respondent and also to any other bus operator who is operating in the same route. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Regional Transport Officer,
Erode East,
Erode.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation,
Erode Division,
Erode.

+1 cc to M/s.M.Guruprasad, Advocate Sr.No. 20109

+1 cc to The Government Pleader Sr.No. 20242

AKM/11.03.2020/3P-5C /

W.P. No. 1902 of 2020

and

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सत्यमेव जयते

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