

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9390 of 2020
and
W.M.P.No.11478 of 2020

M.Hariharan,
S/o.Late P.Manisankar.

... Petitioner

Vs.

The Regional Transport Officer,
Regional Transport Office,
Thiruvannamalai,
Thiruvannmalai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in Na.Ka.No.19877/A1/2020 dated 02.07.2020 and quash the same and consequently direct the respondent to renew the bus permit along with change of ownership, to the petitioner.

For Petitioner : Mr.P.Kannankumar

For Respondent :Mr.K.Parameshwaran
Government Advocate

O R D E R

By consent given by both sides, this writ petition is taken up for final hearing at the admission stage itself.

2.This writ petition has been filed challenging the impugned proceedings of the respondent dated 02.07.2020, wherein the representation made by the petitioner seeking for the renewal of the permit and change of the ownership was rejected by the respondent.

3.The case of the petitioner is that his grandfather, who was the owner of the bus was given a permit for running the bus between Thiruvannamali and Thirukovilur. The validity of the bus permit was effective till 16.07.2020. The further case of the petitioner is that his grandfather before his death had given a letter in favour of the petitioner permitting the petitioner to change the ownership in his name. The grand father of the petitioner died on 14.03.2020. The petitioner intimated the respondent regarding the death of his grandfather and had requested the respondent to renew the permit and grant the same in the name of the petitioner.

4.The representation made by the petitioner was rejected by the respondent through the impugned proceedings dated 02.07.2020 on the ground that the petitioner did not furnish the legal heir certificate and the ownership of the vehicle was also not transferred in the name of the petitioner and therefore, the permit cannot be renewed in the name of the petitioner beyond 16.07.2020. Aggrieved by the same, the present writ petition has been filed before this Court.

5.The learned counsel for the petitioner submitted that Section 82(2) of the Motor Vehicles Act contemplates the situation where a person holding possession of the vehicle can be given permit. The learned counsel further submitted that the respondent had been conferred powers under Section 211 of the Tamil Nadu Motor Vehicles Rules to conduct an enquiry and find out who is in possession and control of the vehicle and grant the permit. The alternative submission made by the learned counsel for the petitioner is that the respondent ought to have considered the grant of temporary permit to the petitioner under 87 of the Motor Vehicles Act, since the permit was to expire on 16.07.2020. The learned counsel further submitted that since there was no rival claim made by any other party, the respondent should have conducted an enquiry and come to a conclusion and in the meantime, a temporary permit could have been permitted in the name of the petitioner.

6.Mr.Parameswaran, learned Government Advocate, appearing on behalf of the respondents submitted that the permit can be granted only in the name of the owner of the vehicle. In this case, admittedly, the ownership stands in the name of the grandfather of the petitioner. Therefore, the petitioner has to first get the ownership in his name and thereafter he must seek for renewal of permit. To support his contention, the learned counsel relied upon Section 82 of the M.V.Act.

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

8.This Court is not able to find any apparent illegality in the orders passed by the respondent. According to the petitioner, his grandfather has already given a letter in his favour to get the ownership of the vehicle transferred in his name. Admittedly, till date the ownership of the bus stands in the name of the grandfather. Therefore, the petitioner must first get the ownership of the bus transferred in his name. Only thereafter, the permit can be granted in the name of the petitioner. The definition of the term "Owner" as defined under the Motor Vehicles Act clearly explains this position. Based on the letter given by the grandfather, the petitioner can get the ownership transferred in his name.

9.In this case, the permit was in effect till 16.07.2020. Section 80 of the Motor Vehicles Act contemplates grant of a temporary permit. Therefore, the respondent can always consider granting a temporary permit for a short time in the name of the petitioner. The petitioner in the mean time can get the ownership of the bus transferred in his name and thereafter approach the respondent seeking for permit in his name. The petitioner is directed to make a representation to that effect and the respondent shall consider the same for the grant of a temporary permit for a short time.

10.This writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CS-)

True Copy

Sub-Assistant Registrar

To

1.The Regional Transport Officer,
Regional Transport Office,
Thiruvannamalai, Thiruvannmalai District.

2.The Government Pleader,
High Court, Madras.

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