

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 33173 and 33174 of 2019

N. Henry

... Petitioner in both W.P.s

-vs-

1. The Regional Transport Officer/Authority,
Marthandam, Marthandam Post,
Kanyakumari District.
2. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Transport) Department,
Fort St. George,
Chennai - 600 009. ... Respondents in both W.P.s

Prayer in W.P. No. 33173 of 2019:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 02.01.2019 passed in M.V. Appeal No. 117/2015 on the file of State Transport Appellate Tribunal, Chennai confirming the order of the First Respondent in R. No. 37010/B1/14 dated 06.11.2015 rejecting the application dated 29.07.2015 for grant of stage carriage permit for the route between Nagarcoil to Thoothoor (Via Parvathipuram, Thuckalay-Thoduvatti Kaliyakkavillai, Kozhivillai, Thaiyalumudu, Konachery, Suriacode and Nampali) and quash the same and consequently directing the First Respondent to grant stage carriage permit to the Petitioner.

Prayer in W.P. No. 33174 of 2019:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 02.01.2019 passed in M.V. Appeal No. 18/2015 on the file of State Transport Appellate Tribunal, Chennai confirming the order of the First Respondent in R. No. 37010/B1/14 dated 14.11.2014 rejecting the application dated 21.01.2011 for grant of stage carriage permit for the route between Nagarcoil to Thoothoor (Via Thuckalay, Kaliyakkavillai, Kozhivillai Villakku, Mangadu, Kanchanpuram and Nithiravilai) and quash the same and consequently directing the Respondent to grant stage carriage permit to the Petitioner.

For Petitioner : Mr. R. Kannan in both W.P.s

For Respondents: Mr. R. Venkatesh,
Government Advocate in both W.P.s

C O M M O N O R D E R

The order challenged in the Writ Petition has been passed by the State Transport Appellate Tribunal consisting of a judicial officer in the rank of District Judge under Section 89 (2) of the Motor Vehicles Act, 1988. The Hon'ble Supreme Court of India in Life Insurance Corporation of India -vs- Nandhini J. Shah [(2018) 15 SCC 356] has held that such judicial order would not be amenable to Writ of Certiorari under Article 226 of the Constitution of India, but the same could be impeached in proceedings under Article 227 of the Constitution of India before the Jurisdictional High Court.

2. In view of the aforesaid legal position, Registry is directed to de-register the Writ Petition and return the papers to the Learned Counsel for the Petitioner so as to enable them to re-submit the same as Civil Revision Petition under Article 227 of the Constitution of India with necessary requirements as per the rules within a period of 15 days from the date of collecting papers from the Registry.

3. The Writ Petitions are disposed on the aforesaid terms. No costs.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

vjt
To

1. The Regional Transport Officer/Authority,
Marthandam, Marthandam Post,
Kanyakumari District.
2. The Secretary to the Government of Tamil Nadu,
Home (Transport) Department,
Fort St. George, Chennai - 600 009.

+1cc to Government Pleader SR.No.9024

W.P. Nos. 33173 and 33174 of 2019

GMV (08/05/2020)