



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) Nos.10824 to 10828 & 10831 to 10833 of 2020

WEB COPY

Arockiyaraj	... Petitioner in WP(MD)No.10824/2020
J.Sirajudeen	... Petitioner in WP(MD)No.10825/2020
Ashok Kumar	... Petitioner in WP(MD)No.10826/2020
T.Saravana Kumar	... Petitioner in WP(MD)No.10827/2020
Rajeshmutukumar	... Petitioner in WP(MD)No.10828/2020
M.Rajaram	... Petitioner in WP(MD)No.10831/2020
M.Kamatchi	... Petitioner in WP(MD)No.10832/2020
K.Mariappan	... Petitioner in WP(MD)No.10833/2020

Vs.

The Regional Transport Officer,
Regional Transport Office,
Madurai South, Velmurugan Nagar,
Near PRC Bus Depot,
Madurai - 625 003.

... Respondent in WP(MD)Nos.10824,10825,
10831 & 10832 of 2020

The Regional Transport Officer,
Regional Transport Office,
Madurai North, Melur Road,
Madurai.

... Respondent in WP(MD)Nos.10826,10827&
10833 of 2020

The Regional Transport Officer,
Regional Transport Office,
Madurai Central, Melur Main Road,
Madurai-625 007.

... Respondent in WP(MD)No.10828 of 2020

Prayer in WP(MD). 10824/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Mandamus or any other writ in the nature of Mandamus directing the respondent to consider representation dated 8.8.2020 and consequently direct the respondent to issue new and fresh three wheeler auto rickshaw permit petitioners favor to be used for contract carriage purpose .

Prayer in WP(MD). 10825/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Mandamus or any other writ in the nature of Mandamus directing the respondent to consider representation dated 8.8.2020 and consequently direct the respondent to issue new and fresh three



wheeler auto rickshaw permit petitioners favor to be used for contract carriage purpose.

Prayer in WP(MD). 10826/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Mandamus or any other writ in the nature of Mandamus directing the respondent to consider representation dated 8.8.2020 and consequently direct the respondent to issue new and fresh three wheeler auto rickshaw permit petitioners favor to be used for contract carriage purpose.

Prayer in WP(MD). 10827/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Mandamus or any other writ in the nature of Mandamus directing the respondent to consider representation dated 8.8.2020 and consequently direct the respondent to issue new and fresh three wheeler auto rickshaw permit petitioners favor to be used for contract carriage purpose.

Prayer in WP(MD). 10828/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent to consider representation dated 08.08.2020 and consequently direct the respondent to issue new and fresh three wheeler auto rickshaw permit in Petitioners favor to be used for contract carriage purposes.

Prayer in WP(MD). 10831/ 2020 :

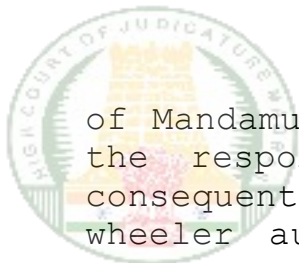
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Mandamus or any other writ in the nature of Mandamus directing the respondent to consider representation dated 8.8.2020 and consequently direct the respondent to issue new and fresh three wheeler auto rickshaw permit in petitioners favor to be used for contract carriage purpose.

Prayer in WP(MD). 10832/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent to consider representation dated 08.08.2020 and consequently direct the respondent to issue new and fresh three wheeler auto rickshaw permit in Petitioners favor to be used for contract carriage purposes.

Prayer in WP(MD). 10833/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ



of Mandamus or any other writ in the nature of Mandamus directing the respondent to consider representation dated 8.8.2020 and consequently direct the respondent to issue new and fresh three wheeler auto rickshaw permit petitioners favor to be used for contract carriage purpose.

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For Petitioner in all WPs : Mr.S.Parthasarathy
For Respondent in all WPs : Mr.M.Rajarajan
Additional Government Pleader

COMMON ORDER

Heard the learned counsel on either side.

2. The writ petitioners are resident of Madurai. They are eking out their livelihood as auto ricksaw drivers. The petitioners applied to the respondent for grant of Contract Carriage Permits. The petitioners' representations were not acted upon. Therefore, these writ petitions came to be filed.

3. When the matter was taken up for hearing the learned Additional Government Pleader, based on the written instructions, submitted that in Madurai District, the Automobile population has really gone up and therefore, the District Collector, had issued orders for stopping the issuance of fresh Auto Ricksaw permits.

4. I am afraid that I cannot accept the said objection put-forth by the learned Additional Government Pleader. As rightly pointed out by the learned counsel appearing for the writ petitioners that the case on hand is no longer *res integra*. By order dated 23.07.2020, I had held that only in terms of Rule 165 of the Tamil Nadu Motor Vehicle Rules, 1989, the request for the issuance of permit can be denied. But then for invoking the said rule, there must be a notification issued under Section 74 (3A) of the Motor Vehicle Act 1988 governing in the field. As on date, no such restrictive notification has been issued by the Central Government. There has been no specific direction from the State Government forbearing the issuance of the permits. Therefore, the respondent on his own cannot arbitrarily deny the issuance of the permits. The condition precedent for invoking Rule 165 is absent. The State Government does not appear to have issued any prohibitory direction. Taking note of the fact that the right to eke livelihood as an auto driver is a fundamental right guaranteed from the Article 19 (1)(g) of the Constitution of India, I direct the respondents to consider the petition mentioned representations and if the petitioners are otherwise found eligible, they shall be issued with the contract carriage permits sought for. The entire exercise shall be concluded within a period of eight weeks from the date of receipt of a copy of this

order.



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5. These Writ Petitions are allowed on these terms. No costs.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1.The Regional Transport Officer,
Regional Transport Office,
Madurai South, Velmurugan Nagar,
Near PRC Bus Depot, Madurai - 625 003.

2.The Regional Transport Officer,
Regional Transport Office,
Madurai North, Melur Road,
Madurai.

3.The Regional Transport Officer,
Regional Transport Office,
Madurai Central, Melur Main Road,
Madurai-625 007.

+1 CC to Mr.S. PARTHASARATHY, Advocate (SR-18324[F] dated 29/09/2020)

+1 CC to SGP (SR-18398[F] dated 29/09/2020)

W.P. (MD) Nos.10824 to 10828 &
10831 to 10833 of 2020
25.09.2020

SRK(CO)

KM (14.10.2020) 4P 6C

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