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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11070 of 2020
and
W.M.P.(MD)Nos.9706 and 9708 of 2020

P.Rani ... Petitioner

Vs.

1.The Regional Transport Authority/
District Collector,
Theni, Theni District.

2.The Regional Transport Officer,
Regional Transport Office,
Theni, Theni District.

3.The Motor Vehicle Inspector Grade-II,
Office of the Regional Transport Office,
Theni, Theni District. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in his proceedings in R.No.1034/A3/2020 dated 18.08.2020 and quash the same as illegal and consequentially to direct the respondents to permit the petitioner's mini bus bearing Registration No.TN-69-E-9461 to enter into the Theni Old Bus Stand and New Bus Stand in the light of the proceedings issued by the Transport Commissioner in his Letter No.90919/E2/2000, dated 29.11.2000 within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Ajmalkhan
Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.P.Mahendran
Additional Government Pleader

ORDER

Heard the learned Senior Counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the respondents.

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2.The respondents have filed a detailed counter affidavit and also typed set of papers. The learned Additional Government Pleader strongly contended that the order impugned in the writ petition does not deserve to be interfered with. He specifically contended that the contention urged by the learned Senior Counsel for the petitioner ought to be canvassed only before the tribunal and not before this Court. He placed reliance on the decision of the Hon'ble Division Bench of this Court in the case of ***The Regional Transport Authority, Theni District Vs. M.Rajendran [W.A.(MD) Nos.1355 and 1356 of 2019, dated 29.11.2019].***

3.The petitioner is a stage carriage operator. The petitioner is owning a Mini Bus bearing Reg.No.TN-69-E-9461. The permit is valid as on date. The mini bus is plying in the permitted route between Theni-Pallivasal to Vadapudhupatty Nadar Saraswathy College. Enroute, the old bus stand as well as the new bus stand of Theni are situated. The petitioner wants to enter and ply through the old bus stand as well as the new bus stand. In this regard, the petitioner submitted an application. The Regional Transport Authority, Theni by the impugned order dated 18.08.2020 rejected the petitioner's request. According to the first respondent, the petitioner's mini bus is already enjoying 3.8 kms by way of overlapping distance. According to the first respondent, if the petitioner is allowed to ply through the old bus stand and the new bus stand, it would result in an additional distance of 675 meters being traversed by the petitioner's mini bus on the served sector. According to the first respondent, this would be in violation of the "Approved Modified Scheme 1999". This order is put to challenge in this writ petition.

4.The learned Senior Counsel appearing for the writ petitioner submitted that even according to the first respondent, if the petitioner is allowed to ply through the old bus stand, it would mean that the petitioner is deviating to the extent of 125 meters on the served sector. According to the learned Senior Counsel, even going by the case of the authority, it would still fall well within the ceiling limit of 4 kms. He would further submit that the order impugned in the writ petition may be quashed to the limited extent and that he would file an independent appeal before the tribunal to establish the petitioner's right to ply through the new bus stand also.

5.I am of the view that no exception can be taken to this request made by the learned Senior Counsel.

6.In paragraph No.11 of the impugned order, the first respondent had stated that there would be deviation to the extent of 125 meters only. According to the authority, the petitioner is already traversing 3.8 kms on the served sector. Adding both together, it would still fall well within the ceiling limit of 4 kms. Therefore, this part of the impugned order is quashed and the

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petitioner is permitted to enter into Theni Old Bus Stand, while covering the permitted route.

7.I permit the petitioner to file an independent appeal questioning the impugned order before the tribunal. I make it clear that all the contentions of the petitioner are otherwise left open.

8.The writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)

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 Authority/
District Collector,
Theni, Theni District.

2.The Regional Transport Officer,
Regional Transport Office,
Theni, Theni District.

3.The Motor Vehicle Inspector Grade-II,
Office of the Regional Transport Office,
Theni, Theni District.

+1 CC to M/s.Special Govt.Pleader (SR-17460[F] dated 18/09/2020)

W.P.(MD)No.11070 of 2020
and
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17.09.2020

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