



W.P. (MD) Nos. 12989 of 2019 and 13928 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2020

CORAM

THE HONOURABLE MR. JUSTICE **ABDUL QUDDHOSE**

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W.P. (MD) Nos. 12989 of 2019 and 13928 of 2020
and

W.M.P. (MD) Nos. 9671 and 12723 of 2019

W.P. (MD) No. 12989 of 2019:

P. Francis Raja

: Petitioner

Vs.

1. The Regional Transport Authority-cum-
District Collector,
Thiruchirapalli District, Thiruchirapalli.

2. The Secretary,
Regional Transport Authority,
Srirangam, Trichy District.

3. The Registering Officer,
(P.A. to RTO),
Personal Assistant to the Regional Transport Officer,
Office of the Regional Transport Officer (General),
Srirangam, Trichy District. : Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari of Mandamus, to call for the records pertaining to the impugned Notice passed by the third respondent by his proceedings in Na.Ka.No.3378/E1/2019, dated 18.05.2019 and quash the same as illegal and consequently, to direct the first respondent to pass orders on the petitioner's Joint Application, dated 09.01.2019 in view of the enquiry that was completed.

For Petitioner
For Respondents

: Mr. A.C. Asaithambi
: Mr. C. Ramesh
Special Government Pleader

W.P. (MD) No. 13928 of 2020:-

Jospin

: Petitioner

Vs.

1. The Regional Transport Officer,
Regional Transport Office,
Thiruchirapalli.



2. The Assistant Licensing Authority,
Regional Transport Office,
By-pass Road, Musiri Town, Musiri Taluk,
Thiruchirapalli District, Thiruchirapalli.

3. Francis Raja

: Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the 2nd respondent not to give fitness certificate and route permit for the forthcoming year to the 3rd respondent's vehicle bearing registration No. TN-25-A-5285 by considering the petitioner's representation, dated 03.09.2020.

For Petitioner
For R1 and R2

: Mr. I. Velpradeep
: Mr. C. Ramesh
Special Government Pleader

COMMON ORDER

(This petition was heard through Video Conferencing)

W.P. (MD) No. 12989 of 2019 has been filed by Mr. P. Francis Raja, challenging the impugned notice, dated 18.05.2019 issued by the third respondent on the ground that the said notice has been issued arbitrarily and by total non-application of mind. According to P. Francis Raja, the second respondent has issued the very same notice on 26.02.2019 for which the petitioner has submitted a detailed reply on 12.03.2019.

2. W.P. (MD) No. 13928 of 2020 has been filed by Mrs. Jospine, seeking for a Mandamus to direct the second respondent not to give fitness certificate and route permit for the forthcoming years to Mr. P. Francis Raja, the petitioner in W.P. (MD) No. 12989 of 2019 and the 3rd respondent in W.P. (MD) No. 13928 of 2020 for the vehicle bearing Registration No. TN.25-A-5285 by considering the petitioner's representation, dated 03.09.2020.

3. Heard Mr. A. C. Asaithambi, learned Counsel for the petitioner in W.P. (MD) No. 12989 of 2019, Mr. I. Velpradeep, learned Counsel for the petitioner in W.P. (MD) No. 13928 of 2020, Mr. C. Ramesh, learned Special Government Pleader for the official respondents.

4. Since the subject issue pertains to the very same vehicle, bearing registration No. TN.-25-A-5285, over which the respective petitioners claim legal right, both the Writ Petitions are disposed of by a common order.

5. This Court, by its order, dated 15.02.2019 passed in W.P. (MD) No. 3451 of 2019 in a Writ Petition filed by the petitioner in W.P. (MD) No. 12989 of 2019, directed the Secretary, Regional Transport Authority, Srirangam, Trichy, to receive the petitioner's application, dated 09.01.2019 seeking for transfer of permit in respect of the subject vehicle, namely, Mini Bus bearing



Registration No. TN-25-A-5285 and pass orders on the transfer application on merits and after considering the materials available on record within a period of four weeks from the date of receipt of the application. It is the contention of the petitioner in W.P. (MD) No. 12989 of 2019 that no final order has been passed in the application, dated 09.01.2019 seeking for transfer of permit in his name.

6. It is the case of the petitioner in W.P. (MD) No. 13928 of 2020 that the petitioner in W.P. (MD) No. 12989 of 2019 is her son-in-law and he had deposited the original Registration Certificate for the Mini Bus bearing Registration No. TN-25-A-5285 with her as security and has availed a loan of Rs. 10,00,000/-. According to the petitioner in W.P. (MD) No. 13928 of 2020, the petitioner in W.P. (MD) No. 12989 of 2019 has attempted to sell the Mini Bus to one Sathyaraj, by submitting an application, dated 09.01.2019 with the second respondent seeking for transfer of permit. It is her contention that the application, dated 09.01.2019 submitted by the petitioner in W.P. (MD) No. 12989 of 2019 seeking for transfer of permit was rejected by the first respondent by his order, dated 18.05.2019, which is disputed by the petitioner in W.P. (MD) No. 12989 of 2019, as according to him, it is only a notice and not a final order.

7. This Court has perused and examined the notice, dated 18.05.2019 and accepts all the contentions of the petitioner in W.P. (MD) No. 12989 of 2019, as notice only has been issued calling upon the petitioner to submit an application and no final order has been passed. After considering the rival contentions, this Court is of the considered view that the order, dated 15.02.2019 by this Court in W.P. (MD) No. 3451 of 2019 is yet to be complied with by the second respondent in the said Writ Petition, who was directed to pass final orders within a period of four weeks from the date of receipt of the application for transfer of permit. The transfer of permit application was submitted by the petitioner in W.P. (MD) No. 12989 of 2019 on 09.01.2019. But, till date no final order has been passed.

8. The petitioner in W.P. (MD) No. 13928 of 2020, who is the mother-in-law of the petitioner in W.P. (MD) No. 12989 of 2019 has also now raised dispute with regard to the transfer of permit application submitted by the petitioner in W.P. (MD) No. 12989 of 2019 with regard to the transfer of permit application submitted by the petitioner in W.P. (MD) No. 12989 of 2019. This being the case, the petitioner in W.P. (MD) No. 13928 of 2020 is also a necessary party to be heard by the Secretary, Regional Transport Authority, Srirangam, Trichy District, before passing of any final orders in the petitioner's application for transfer of permit. The petitioner in W.P. (MD) No. 13928 of 2020 has also given a representation, dated 03.09.2020 to the Secretary, Regional Authority, Srirangam, Trichy District, calling upon him not to give fitness certificate and route permit for the forthcoming years to the petitioner in W.P. (MD) No. 12989 of 2019, who is the 3rd respondent in W.P. (MD) No. 13928 of 2020.



9. The official respondents have also filed their counter affidavit in both Writ Petitions, wherein, it has been stated that fitness certificate for the Mini Bus bearing registration No. TN-25A-5285 was extended in favour of the petitioner in W.P. (MD) No. 12989 of 2019 upto 31.12.2020. However, as seen from the counter affidavit, it is clear that no final order has been passed by them pursuant to the directions given by this Court in W.P. (MD) No. 3451 of 2019, dated 15.02.2019.

10. After giving due consideration to the case of the petitioners in both Writ Petitions as well as the official respondents, this Court is of the considered view that the issue raised by the respective parties will have to be considered by the Secretary, Regional Transport Authority, Srirangam, Trichy District, in the application, dated 09.01.2019 submitted by the petitioner in W.P. (MD) No. 12989 of 2019 seeking for transfer of permit on merits and in accordance with law after giving due opportunity to the respective petitioners in W.P. (MD) Nos. 12989 of 2019 and 13928 of 2020 and after affording them the right of personal hearing and thereafter, pass final orders on merits and in accordance with law.

11. For the foregoing reasons, this Court directs the second respondent in W.P. (MD) No. 12989 of 2019 to pass final orders on the application, dated 09.01.2019 submitted by the petitioner in W.P. (MD) No. 12989 of 2019 seeking for transfer of permit and pass final orders on merits and in accordance with law after giving adequate opportunity to the respective petitioners in W.P. (MD) Nos. 12989 of 2019 and 13928 of 2020 including granting them the right of personal hearing, on merits and in accordance with law within a period ten weeks from the date of receipt of a copy of this order.

12. With the aforesaid directions, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

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Sub Assistant Registrar (CS)

cmr
To

1. The Regional Transport Authority-cum-
District Collector,

<https://hcservices.ecourts.gov.in/hcservices/>
Thiruchirappalli District, Thiruchirappalli.



W.P. (MD) Nos. 12989 of 2019 and 13928 of 2020

2. The Secretary,
Regional Transport Authority,
Srirangam Trichy District.

3. The Registering Officer,
(P.A. to RTO),
Personal Assistant to the Regional Transport Officer,
Office of the Regional Transport Officer (General),
Srirangam, Trichy District.

+1 CC to M/s.GP (SR-23539[F] dated 01/12/2020)

W.P. (MD) Nos. 12989 of 2019 and 13928 of 2020
30.11.2020

KK(09.12.2020) 5P 5C