



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2020

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**

**W.P (MD)No.6241 of 2019**

WEB COPY

A.Ramasamy

... Petitioner

Vs.

1.The Regional Transport Authority,  
Ramanathapuram District,  
Ramanathapuram.

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

... Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent in proceedings R.No.4167/B2/2019 dated 20.02.2019 and quash the same as illegal and consequently direct the first respondent to reconsider the petitioner's application dated 27.12.2018 for renewal of permit along with replacement of vehicle in respect of Mini Bus bearing Registration No.28L 8566 instead of TN 58E 1697 plying on the route Paramakudi Arch to Appanendal.

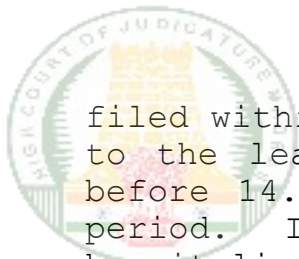
For Petitioner : Mr.A.C.Asaithambi

For Respondents : Mr.C.M.Marichelliah Prabhu  
Additional Government Pleader

**ORDER**

The writ petition is filed in the nature of Certiorarified Mandamus seeking to quash the proceedings of the first respondent in R.No.4167/B2/2019 dated 20.02.2019 and set aside the same and to once again consider the application of the petitioner, dated 27.12.2018, which application has been filed for renewal of permit and also for replacement of vehicle.

2.The learned counsel for the petitioner would submit that the petitioner originally had permit, which was issued on 22.07.2011 to operate Minibus bearing Registration No.TN-58-E-1697 between Paramakudi Arch to Appanendal. The license expired on 20.06.2016. ~~he would further submit that the application for renewal should be~~

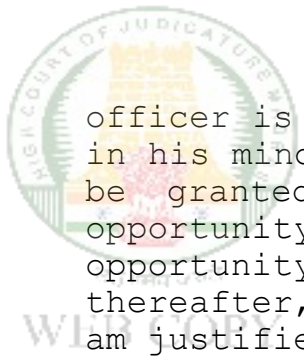


filed within a period of 6 days prior to the expiry date. According to the learned counsel, the petitioner should have applied on or before 14.06.2016. But, the petitioner did not apply within that period. It is the case of the petitioner that the petitioner was hospitalized on medical issues and consequently did not apply. This Court need not examine those reasons because the petitioner has other problems. The minibus bearing registration No.TN-58-E-1697 had been purchased on loan and the financier, owing to the fact that the amounts were not repaid in accordance with the terms, for which, the loan was advanced, had seized the vehicle and issued an arbitration notice and through such proceedings, the financier had also sold the vehicle. Therefore, the petitioner does not have route and does not have the vehicle. He has to apply for renewal of the vehicle and the route. Therefore, he secured another Minibus bearing registration No.TN-28-L-8566. He therefore applied for renewal of the route and also for renewal of the minibus from TN58E 1697 to TN 28L 8566. This application for two purposes was not originally received by the respondents. Therefore, the petitioner had come before this Court and filed W.P(MD)No.781 of 2019. A learned Single Judge of this Court, after examining Section 81(3) of the Tamil Nadu Motor Vehicles Act r/w Rule 193 (A) of the Tamil Nadu Motor Vehicles Rules, held that there was a statutory provision, under which, the petitioner could submit such an application. Consequently, a Mandamus was issued directing the second respondent, namely, the Regional Transport Officer, Ramanathapuram to receive the application and forward the same to the first respondent, namely, the Regional Transport Authority, Ramanathapuram District, who should pass appropriate order within the time specified in the said order. The order of the first respondent/Regional Transport Authority is impugned in this writ petition as the said Authority had rejected the application of the petitioner.

3.The only grievance raised by the petitioner is that there was no opportunity of being heard before such an order of rejection being passed.

4.In the counter affidavit filed by the second respondent, who is the Regional Transport Officer and not the Officer, who actually passed the impugned order, denial of personal opportunity is justified by placing reliance on Section 81 (4) (b) (3) of the 'Motor Vehicle Act' (hereinafter referred to 'Act' for the sake of brevity), wherein according to the said Officer, the personal opportunity must be granted, if only the petitioner's vehicle had been punished twice or more for any of the offences mentioned in paragraph No.81(b) (i) & (ii).

5.Unfortunately, I am not able to understand the said reasoning. The provision is quite clear. Under Section 81 of the Act, which relates to rejection of application, it has been very specifically in the proviso that no such order of rejection can be passed without providing an opportunity of being heard. If the



officer is confident that he is examining an issue without prejudice in his mind, then he should further examine whether opportunity had been granted. If the opportunity is to be granted, then the opportunity must be granted. The applicant should be granted opportunity of being heard and to put forward his submission and thereafter, the authority should pass an order based on reasons. I am justified in interfering with the impugned order.

6. Reliance can also be placed on unreported order made in W.P.No.16190 of 2019 dated 31.07.2018 in the case of **S.Raja Rathinam Vs., The Regional Transport Authority**, wherein a learned Single Judge of this Court had set aside the impugned order and had remanded the matter back for fresh consideration.

7. With respect to replacement of the vehicle, the learned counsel for the petitioner had relied on a decision reported in **AIR 1968 Rajasthan 334**, in the case of **M/s. Automobile Transport Rajasthan (P) Ltd., Ajmer Vs., the Regional Transport Authority, Jaipur and others**, wherein, a learned Single Judge of the Rajasthan High Court had stated that if the vehicle is to be replaced, then it should be produced before the said authority. The petitioner has to comply with those conditions, if the opportunity to be granted to the petitioner.

8. Therefore, the order impugned in this writ petition is set aside. The first respondent namely, the Regional Transport Authority, Ramanathapuram District is directed to once again re-examine all issues provide an opportunity of being heard to the petitioner and thereafter, examine the submission of the petitioner necessitating delay in filing application for renewal and necessitating the replacement of the vehicle with a new vehicle and thereafter, pass orders on merits with reasons. It is hoped the said authority would pass such final order on or before 13.04.2020.

9. With the above observation, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar (CS)

Rmk

**To**

1. The Regional Transport Authority,  
Ramanathapuram District,  
Ramanathapuram.

<https://hcservices.ecourts.gov.in/hcservices/>



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

+1 CC to M/s.A.C.ASAITHAMBI, Advocate ( SR-10861[F] )

+1 CC to M/s.SPL.GP ( SR-11099[F] )

**W.P (MD) No. 6241 of 2019**  
**09.03.2020**

SP (07.05.2020) 4P-5C