



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2020

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P. (MD) No.99 of 2019

and

WMP (MD) Nos.71 and 72 of 2019

S.Sivashenbagakumar

.. Petitioner

vs.

1.The State of Tamil Nadu rep.by
The District Collector cum Regional
Transport Authority,
Nagercoil, Transport Department,
Kanyakumari District.

2.The Regional Transport officer,
Nagercoil,
Kanyakumari District.

3.The Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
rep.by its General Manager,
Nagercoil Region,
Nagercoil,
Kanyakumari District.

..Respondents

(R3 impleaded vide court order dated 06.02.2019
in WMP (MD) No.1143 of 2019)

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order in R.No.37561/A3/2018 dated 04.10.2018 issued by the first respondent and quash the same as being illegal, arbitrary and unconstitutional and consequently direct the 1st respondent to permit the petitioner's mini bus TN-74-E-7848 to make use of Vadasery Bus stand, Nagercoil for the benefit of the travelling public while operating the mini bus on the notified route Vadasery Bus Stand Junction to Therku Kannankulam.



For Petitioner : Mr.C.K.Chandrasekar
For R1 & R2 : Mrs.J.Padmavathi Devi
Special Government Pleader
For R3 : Mr.K.Sathiyasingh

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ORDER

This writ petition is filed challenging the order passed by the first respondent in R.No.37561/A3/2018 dated 04.10.2018 and consequently direct the first respondent to permit the petitioner's mini bus bearing Registration No.TN-74-E-7848 to make use of Vadasery Bus stand, Nagercoil for the benefit of the traveling public while operating the mini bus on the notified route ie., Vadasery Bus Stand Junction to Therku Kannankulam.

2.The petitioner is a mini bus operator in Nagercoil Town, owning the vehicle bearing Registration No.TN-74E-7848 for the route Vadasery bus stand to Therku Kannankulam. The present permit issued to the petitioner is valid till 02.01.2021. As a mini bus operator, the petitioner is permitted to operate 4 kilometers in the served route by the Government buses. Now, the challenge is to the order dated 04.10.2018 made in R.No.37561/A3/2018. Originally the vehicle in question was granted a mini bus permit to ply on the route from Vadasery bus stand junction to Therku Kannankulam. The entire stretch of the route is about 6.5 kilometers, of which, 4 kilometers is a served sector and 2.5 kms is unserved sector. The vehicle was allowed to go through from Vadasery bus stand junction to Anna Stadium, Tower junction, Anna bus stand, Government hospital, Kottar, Edalakudy, Annai Bridge, Kulathoor, Kulathoor Colony and Therku Kannankulam.

3.It is stated by the respondents that Vadasery bus stand does not come under the route permit of the vehicle in question and Vadasery bus stand is about 250 metres from the starting point to Vadasery bus stand junction. It is further stated that the mini bus is allowed only to go through the Anna bus stand and not through Vadasery bus stand. If the vehicle is allowed to go through the Court road, there will be 3.5 kilometers more from the permitted route and 2 kilometers in the served sector, as the Court road is a one way road. However, it is argued by the learned counsel for the petitioner that if the request of the petitioner to enter into the Vadasery bus stand is granted, it will be beneficial for the rural public. Further it is argued that while returning from Therku Kannankulam, there is one way, therefore, there is a need to go through Veppamodu junction, Court Road and reach Vadasery bus stand, whereas, if the petitioner is allowed to go through the Veppamodu road, Anna bus stand, Cape road, Ozhuginasery and reach Vadasery bus stand, the distance is 3.70 kilometers.



4.The contention of the learned Special Government Pleader is that if the petitioner is allowed to operate the vehicle as requested by him, it would be beyond the permit granted, which was only upto 4 kilometers.

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5.Now the question is whether the petitioner can be allowed to go through the Court road, W.C.C.road and reach Vadasery bus stand?

6.As per the original permit granted to the erstwhile owner of the bus on 30.12.2015, the permitted route is Vadasery bus stand junction to Therku Kannankulam (via) Anna Stadium, Tower junction, Anna bus stand, Government hospital, Kottar, Edalakudi bus stop, Aanai bridge Kolathur, Kolathur colony, Therku Kannankulam.

7.As per the Scheme, mini buses can be plied upto a distance of 4 kilometers in the served sector and 16 kilometers in the unserved sector. Admittedly, the route permit granted is valid for the period from 03.01.2016 to 02.01.2021. In the instant case, when the permit is in force, modification has been made by the traffic police, as per which, the route from Veppamudu via Anna stadium to Vadasery bus stand is made one way and the first respondent has directed the petitioner to operate in a different circuitous route specified by them, which is turning on the right side of Anna bus stand, Cape road, Meenakshipuram road, Ozhiginasery and reach Vadasery bus stand. The subsequent arrangements in the traffic will not alter the route permit granted to the mini buses. The traffic authorities have made the routes one way to avoid traffic congestion, which should not affect the plight of the mini buses, operating in the said route.

8.In the given case, if the petitioner takes the alternative route, from Veppamudu to Anna bus stand - 0.60 km; Anna bus stand to Ozhiginasery - 2.00 km; Ozhiginasery to Vadasery bus stand - 0.80 km and Vadasery bus stand to Dislery road end - 0.30 km, it is totally 3.70 kms, whereas, if the petitioner takes the route from Veppamudu through Court road via Vadasery bus stand, it is only 2.40 kilometers. In the impugned order it has been wrongly stated that there will be 3.5 kilometers more from the permitted route and 2 kilometers in the served sector. The subsequent modifications made by the authorities cannot affect the route permit and it cannot be considered as an extension beyond the permitted distance of 4 kilometers in the served sector. In the event a decision is taken to restore the original route, the distance covered in the served sector will be as per the Scheme, ie., within 4 kilometers. As mentioned earlier, the object of operating mini bus is only to serve the commuters and the



authorities have to act keeping in mind the convenience of the public and not the distance which would get increased because of the subsequent modification.

9. As per Rule 245 of the Tamil Nadu Motor Vehicle Rules, there shall be a provision of public stand for public service vehicles. As per Rule 245(a), the local authority shall make an application to the Regional Transport Authority for the purpose of providing public stand for public service vehicles. As per 245(j), the person employed at the stand maintained by the local authority, shall be responsible for maintaining the stand in a serviceable, clean and sanitary condition. Therefore, it can be inferred that it is incumbent on the local authority and the Regional Transport Authority to maintain the facilities to the commuters for the purpose of making a particular place for stopping and boarding.

10. As mentioned earlier, the local authorities have to take care of the buses, which are permitted to go inside the bus stand and ensure that no inconvenience is caused to the general public. It is for the authorities to regulate the vehicle operators with a view to provide effective services without causing hardship to the commuters. The request of the petitioner to use the Court road to reach Vadasery bus stand is only for the benefit of the passengers who travel in the said vehicle than the circuitous route suggested by the authorities, which would be a hardship for the petitioner as well as loss in fuel and time consumption. The impugned order is passed only based on the distance, without considering the fact that if the mini bus is allowed to go through the Vadaseri bus stand, it will be useful for the commuters. But the increase in distance as mentioned in the impugned order is only because of the subsequent modification in the traffic arrangement for no fault of the petitioner. Hence, any traffic arrangement imposed subsequent to the grant of permit and the alternative route permitted by the respondents will not amount to variant of the notified route or permitted route. The route shall be measured as per the actual permit and not on the basis of the subsequent development. Therefore, the distance measured and given in the impugned order is not correct. The petitioner has also not asked for any extension of the route beyond 4 kilometers but only to ply through the other short route.

10(a) Now coming to the powers of the Road Transport Authority, grant of bus route permit is the function of the Road Transport Authority in exercise of its executive function. Normally, before granting the route permit several parameters that are relevant are considered by the authorities. It is not for the Courts to supplement its views in the grant of permit. Therefore to grant any deviation in the route is also the function of the



authority and not that of the Courts. Here also the Road Transport Authority has passed the impugned order after considering the distance and alternative route available which is unacceptable to the petitioner. If the Court is called upon to give any order to deviate a particular route and take another route, it will amount to interfering with the discharge of executive function of the authority. It is also not the duty of the Courts to decide grant of permits or issue deviated routes. The Court exercising powers under Article 226 is not the fact finding authority. It can only ensure that the executive and administrative authorities are discharging their duties in accordance with law, statutes and rules made thereunder. It is very unfortunate that the rural roads are not able to take the volume of vehicles, forcing the local authorities to make a few roads 'one-way'. This has forced the mini-bus operators like the petitioner to approach the Road Transport Authority seeking permission for grant of deviation of the route in view of the subsequent modification in the traffic arrangement. As the same is refused they are approaching this Hon'ble court.

11. In the result, the impugned order passed by the first respondent in R.No.37561/A3/2018 dated 04.10.2018 is set aside and the writ petition is allowed and remanded to the second respondent for considering the request of the petitioner. The same may be considered in expedition, however, not beyond four weeks. No costs. Consequently, WMP(MD)Nos.71 and 72 of 2019 are closed.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

mj

To

- 1.The District Collector cum Regional
Transport Authority,
State of Tamil Nadu
Nagercoil, Transport Department,
Kanyakumari District.
- 2.The Regional Transport officer,
Nagercoil,
Kanyakumari District.



+1 CC to M/s.SPL.GP (SR-3722[F] dated 29/01/2020)

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-3404[F] dated 28/01/2020)

+1 CC to M/s.C.K.CHANDRASEKARAN, Advocate (SR-3793[F] dated 29/01/2020)

W.P. (MD) No. 99 of 2019

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