



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2020

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)Nos.22137 and 22198 of 2019

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W.P(MD)No.22137 of 2019:

K.Jayasankar

... Petitioner

Vs.

1.The Regional Transport Authority,
Office of the Regional Transport Authority,
Tirunelveli District.

2.The Regional Transport Officer,
Thenkasi,
Tirunelveli District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, seeking to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the first respondent vide his proceedings in Pro.R.No.30069/A1/2017, dated 26.09.2019 and quash the same as illegal and consequently, direct the first respondent to grant two Mini Bus permits to the petitioner on the route, Papanasam, Senaithalaivar Bus Stop to Kalsundu Colony.

For Petitioner	:	Mr.A.C.Asaithambi
For Respondents	:	Mrs.J.Padmavathi Devi Special Government Pleader

W.P(MD)No.22198 of 2019:

K.Selvan

... Petitioner

Vs.

1.The Regional Transport Authority,
Office of the Regional Transport Authority,
Tirunelveli District.

2.The Regional Transport Officer,
Thenkasi,
Tirunelveli District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, seeking to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the first respondent vide his proceedings in Pro.R.No.30068/A1/2017, dated 26.09.2019 and quash the same as illegal and consequently, direct



the first respondent to grant two Mini Bus permits to the petitioner on the route, Ambasamuthiram Bus Stand to Vikramasingapuram, Amali School (Ambalavanapuram Periyatheru Radio Nilayam).

For Petitioner : Mr.A.C.Asaithambi
For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

COMMON ORDER

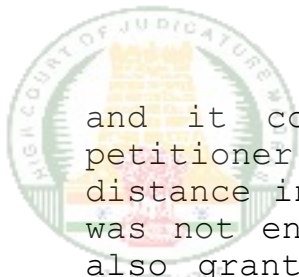
W.P(MD)No.22137 of 2019 has been filed in the nature of writ of Certiorarified Mandamus calling for the records of the order of the first respondent - Regional Transport Authority, Office of the Regional Transport Authority, Tirunelveli District, in proceedings in Pro.R.No.30069/A1/2017, dated 26.09.2019 and set aside the same and direct the first respondent to grant two Mini Bus permits to the petitioner for the route, Papanasam, Senaithalaivar Bus Stop to Kalsundu Colony.

2. W.P(MD)No.22198 of 2019 has been filed in the nature of writ of Certiorarified Mandamus calling for the records of the order of the first respondent - Regional Transport Authority, Office of the Regional Transport Authority, Tirunelveli District, in proceedings in Pro.R.No.30068/A1/2017, dated 26.09.2019 and set aside the same and direct the first respondent to grant two Mini Bus permits to the petitioner for the route, Ambasamuthiram Bus Stand to Vikramasingapuram, Amali School (Ambalavanapuram Periyatheru Radio Nilayam).

3. The issues involved in both the writ petitions are more or less the same and therefore, this common order is passed in these writ petitions. The writ petitioners have been struggling for permits which is evident from the list of dates and events that had been submitted by them.

W.P (MD) No. 22137 of 2019:

4. The petitioner in W.P(MD)No.22137 of 2019 had been seeking permit to run mini bus in the route, Papanasam, Senaithalaivar Bus Stop to Kalsundu Colony. In the impugned order rejecting his application and refusing to grant permit, it had been stated that the Motor Vehicle Inspector - Grade I, Ambasamuthiram, had submitted an inspection report on 09.03.2018 and according to the said report, the total length of the route was 8.3 Kms. Out of this, the served sector was 4.0 Kms., and the unserved sector was 4.3 Kms. Pointing out the said report, the learned Counsel for the petitioner stated that the normal requirement is that if the route is of 20 Kms., which could be the maximum, for which, permit can be granted for the mini bus, then 16 Kms., should be the served sector and 4 Kms., should be the unserved sector. The norm of 16 Kms., is outer limit



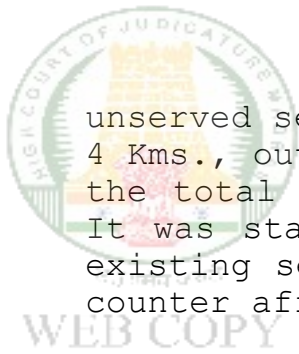
and it could also be less. The permission sought for by the petitioner had been rejected on an earlier occasion stating that the distance in the served sector was slightly longer and the petitioner was not entitled to seek permit. In the meanwhile, the respondents also granted permits for other private operators. Therefore, even the unserved sectors were categorised as served sectors. The respondents relied on a judgment of the Division Bench of this Court for such interpretation.

5. It is an admitted fact that the petitioner's application in one form or other had been pending even prior to such grant. The petitioner's application, as stated above, was rejected and he filed a statutory appeal and that was pending and he approached this Court and the matter was remanded back to the original authority. Thereafter, the petitioner had given a representation and again, it was rejected and once again, appeal was filed and the same was remanded back. In this manner, the petitioner was kept revolving around. Till this date, he has not been able to get the permit.

6. In the counter affidavit filed by the first respondent, it has been stated that several other private operators were operating in the very same sector and therefore, granting of more than one permit may not be appropriate.

7. The learned Counsel for the petitioner, however, relied on the judgment of a learned Single Judge of this Court in ***S.P.Ramalakshmi v. The Regional Transport Authority, Thirunelveli and another*** [W.P(MD)Nos.6017 and 6103 of 2006, decided on 06.02.2009], wherein a common order was passed in both the writ petitions and the learned Single Judge had an occasion to examine more or less similar circumstances. In paragraph 8 of the said order, it had been stated that the reason for denial of the permit to the petitioner therein was that the petitioner was already having one permit to operate mini bus and hence, the case of the petitioner therein could not be considered for grant of second permit. It had been stated that the said reason was not the reason in the impugned order. Even otherwise, the same cannot be a ground to reject the permit to the petitioner to run the minibuses. Even if it was so, the learned Single Judge of this Court had rejected the said reason. The learned Single Judge in those writ petitions, had set aside the orders refusing to grant permit and a direction was given to grant minibus permit to the petitioner to the routes for which he made applications, if there is no other impediment for the same.

8. In the counter affidavit filed by the first respondent, the distance of 8.3 Kms., is maintained. The served sector comes to 4.0 Kms., and the unserved sector comes to 4.3 Kms. However, the calculation has also been done according to the new comprehensive scheme which was implemented in the year 2011. The served sector was more than 30% of the total length and the remaining should be the

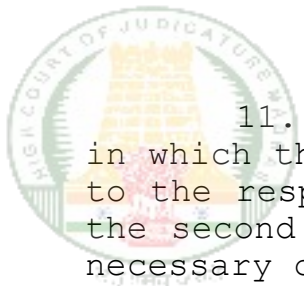


unserved sector. The length on the served sector, according to them, 4 Kms., out of 8.3 Kms., was projected as 2.49 Kms., which is 30% of the total route and the unserved sector was projected as 1.51 Kms. It was stated that this 30% of the route length "may" overlap the existing served sector. I am unable to comprehend that stand in the counter affidavit.

9. The petitioner has sought permission for a specific route. There is a starting point and there is an ending point. Both the starting point and the ending point had been clearly given. The distance naturally will have to be a fixed distance. It is 8.3 Kms., as determined by the petitioner and the respondents. In such circumstances, there cannot be any room for objection for granting permission. The use of the word "may overlap" is not a submission which cannot be accepted by this Court.

10. In the impugned order, it had been stated that there are already three mini buses were operating on the same route. However, the stand that several operators are operating in the route had also come before the Honourable Supreme Court for consideration in **Mithilesh Garg and others v. Union of India and others** reported in **(1992) 1 Supreme Court Cases 168**, wherein at paragraph 6, a discussion was made with respect to several permit holders operating on the same route. In the said judgment, it has been observed as follows:

"6.There is no complaint of infringement of any of their statutory rights. Their only effort is to stop the new operators from coming in the field as competitors. We see no justification in the petitioners' stand. More operators mean healthy-competition and efficient transport system. Overcrowded buses, passengers standing in the aisle, persons clinging to the bus doors and even sitting on the rooftop are some of the common sights in this country. More often one finds a bus which has noisy engine, old upholstery, uncomfortable seats and continuous emission of black smoke from the exhaust pipe. It is, therefore, necessary that there should be plenty of operators on every route to provide ample choice to the commuter public to board the vehicle of their choice and patronize the operator who is providing the best service. Even otherwise the liberal policy is likely to help in the elimination of corruption and favouritism in the process of granting permits. Restricted licensing under the old Act led to the concentration of business in the hands of few persons thereby giving rise to a kind of monopoly, adversely affecting the public interest."



11. In view of the reasoning which also applies to the route in which the petitioner has sought permit, I would issue a direction to the respondents to grant one permit to the petitioner herein and the second permit may be granted, if the petitioner satisfies other necessary conditions.

W.P (MD) No.22198 of 2019:

12. The petitioner herein has sought two Mini Bus permits on the route, Ambasamuthiram Bus Stand to Vikramasingapuram, Amali School (Ambalavanapuram Periyatheru Radio Nilayam).

13. Here again, the petitioner had been subjected to be driven from pillar to post between the authorities by giving representations and the said representations getting rejected and filing the appeals and the same getting remanded to original authorities and once again, giving representations and getting rejected and again filing appeals. It has been a "merry go around circle" experience for the petitioner as seven rejection orders have been passed against the petitioner. He had also an occasion to file a writ of Mandamus to consider the representations/applications. They were considered and they were rejected. The appeals were filed and the appeals were remanded.

14. The learned Counsel for the petitioner urged that this Court should take the matter in its own hands and examine the issue.

15. The reasons on which this Court granted permit to the petitioner in W.P(MD)No.22137 of 2019 applies on all fours to the present writ petition. For the same reasons and also relying on the ratio laid down in the judgments referred to supra, I would direct the respondents to grant one permit to the petitioner and the second permit may be granted, if the petitioner satisfies other necessary conditions.

16. The learned Special Government Pleader appearing for the respondents submitted that this Court may specifically insist the petitioners in both the writ petitions who now have had the benefit of orders of this Court by granting them one permit that they should ply their mini buses through the unserved sectors. It was stated that complaints are received that the permit holders of the mini buses are plying their mini buses only in the served sectors where it is commercially viable and do not ply in the unserved sectors.

17. I am confident that the writ petitioners herein would uphold the trust placed by the respondents and by this Court in granting them permit for plying their mini buses in both the served sector and the unserved sector and also go through the unserved sectors and be of assistance and service to the villagers in the unserved sectors also.



18. With these observations, both the writ petitions are allowed. The respondents may complete the process of issuing one permit to each of the petitioners and commence processing the second permits on or before **30.04.2020**. No costs.

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rsb

To

1.The Regional Transport Authority,
Office of the Regional Transport Authority,
Tirunelveli District.

2.The Regional Transport Officer,
Thenkasi,
Tirunelveli District.

+2 CC to Mr.A.C.ASAITHAMBI, Advocate (SR-11586, 11587
+1 CC to SPL.GP (SR-11579, 11581

W.P(MD)Nos.22137 and 22198 of 2019

12.03.2020

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