



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2117 of 2016

and

W.M.P.(MD)Nos.1842, 1843, 1844 and 4961 of 2016

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1.N.N.L.Pandian (Died)

2.P.Pandurai

... Petitioners

(Second petitioner substituted as LR of the deceased sole petitioner vide Court order dated 15.07.2020 made in W.M.P.(MD)No.17538 of 2019 in W.P.(MD)No.2117 of 2016 by GRSJ)

Vs.

The Secretary,
Regional Transport Authority,
Sivagangai.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the respondent in his proceedings Pro. No.27665/B1/2001, dated 11.02.2002 and quash the same insofar as the stage carriage TN-63AU-8461 is concerned.

For Petitioners	: Mr.AN.Ramanathan
For Respondent	: Mr.M.Rajarajan, Additional Government Pleader

O R D E R

Heard the learned counsel appearing for the writ petitioners and the learned Additional Government Pleader appearing for the respondent.

2.The original writ petitioner namely., N.N.L.Pandian was granted stage carriage permit to operate from Karaikudi to Kottaipattinam. In the year 2012, the said permit was renewed and the permit holder was permitted to operate from Karaikudi to Kottaipattinam

3.In the year 2016, the petitioner was directed to stop his vehicle at the new bus-stand and not ply upto the old bus-stand. The respondent cited the impugned order dated 11.12.2002 in support of their contentions. Hence, the permit holder was constrained to move this writ petition.



4. During the pendency of this writ petition, the original writ petitioner namely., N.N.L.Pandian passed away and his son namely., Pandurai came on record.

5. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

6. When this Court posed a specific question to the petitioner's counsel as to how the writ petitioner could challenge the proceedings after a gap of 14 years, the petitioner's counsel replied that the impugned proceedings were issued without notice to him and that therefore, the doctrine of laches cannot be put against him. He also drew my attention to Section 72 of the Motor Vehicles Act, 1988, and contended that when the conditions of permits are altered and the distance covered by the original writ petitioner is reduced, the permit holder has to be put on notice.

7. I am not persuaded by the aforesaid submission of the learned counsel for the writ petitioner. As rightly contended out by the learned Additional Government Pleader appearing for the respondent, the permit holder had been permitted to operate the petition mentioned vehicle on the route Karaikudi to Kottaipattinam. It was the old permit. When the permit was originally issued, the bus-stand had existed at Kovilur road. Therefore, all the buses operated from the said Kovilur road bus-stand. But in course of time, Karaikudi town witnessed an expansion. Therefore, the construction of a new bus-stand became necessary. It was constructed near Kannadasan Manimandapam and its use was approved in terms of Rule 245 of the Motor Vehicles Rules. The buses were directed to operate only from the new bus-stand. It is quite possible that the petition mentioned vehicle had plied upto the old bus-stand even after the issuance of the impugned proceedings. But that by its will not confer any rights on the permit holder. The permit holder is obliged to ply the stage carriage only as per the parameters and norms laid down in the Act and the Rules framed thereunder. Though the petitioner had been permitted to ply on the route Karaikudi to Kottaipattinam, it obviously means from the bus-stand of Karaikudi to Kottaipattinam. When the new bus stand had been constructed, the permit holder obviously cannot ply beyond the same and cannot insist that he will ply the vehicle upto the old bus stand.

8. The learned Additional Government Pleader appearing for the respondent places reliance on the order dated 22.12.2006 made in W.P.Nos.17464 of 2004 and etc., batch (V.R.Palpandian V. Regional Transport Authority, Madurai South, Madurai and Another). The Hon'ble Division Bench had summarized its conclusions in paragraph 28 of the order. It reads as follows:-

'28. For the aforesaid reasons, we summarise the

conclusions as follows :-



(1) Once a scheme establishing a public stand has been implemented and report to that effect is submitted, the Regional Transport Authority may notify the stand as a public stand for particular class of public service vehicles for which the scheme was approved. However, the Regional Transport Authority is required to give an opportunity to the permit holders of the existing stage carriages while approving a public stand or at the time of its renewal.

(2) When a public stand within the limits of a local authority has been notified by the Regional Transport Authority, any public service vehicle of the class concerned is bound to make use of that stand for the purposes of stationing the vehicle for picking up or setting down passengers. Where there are two or more public stands notified by the Regional Transport Authority, the stand specified by the Regional Transport Authority for particular class of vehicle is required to be made use of by such vehicle. Where, however, there are two or more public stands and the Regional Transport Authority has not specified a particular stand, any one of such notified stand can be made use of by such vehicle.

(3) Where by virtue of notifying a public stand the route becomes altered, the Regional Transport Authority is also required to give opportunity to the concerned permit holders, if such altered route has not been contemplated at the time of notifying the public stand. Where, however, such modified route was in contemplation and had been so indicated at the time of establishing a public stand, obviously giving further opportunity would be redundant.

(4) The mere fact that by virtue of change in the public stand the altered route exceeds 24 kms, is not a ground to hold that the permit holders need not go to the public stand in question and to that extent the condition in the permit as contemplated in Section 72(2) (xxii) can be subject to the condition contemplated in Section 72(2)(xx) as well as the requirement under Rule 245.

(5) While identifying such road to reach the public stand, the concept of not exceeding 24 kms should be kept in view and should be followed as far as possible and only for good and adequate reason a longer road can be identified.



(6) The notice contemplated should be in accordance with Rule 137. However, mere non-service of notice may not ipso facto vitiate the proceedings, if the person aggrieved is not otherwise prejudiced.

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(7) While considering the matter, the Regional Transport Authority cannot discriminate between the private operators and the State Transport Undertaking and merely because the State Transport Undertaking buses are plying, they cannot be treated differently as compared to the private operators.

(8) It is open to the Regional Transport Authority to notify different bus stands for buses coming from different directions, obviously keeping in view the convenience of the public and merely because the operators from a particular direction are allowed to use a particular bus stand cannot be a ground for the bus operators coming from a different direction to claim similar facility. There should not be any discrimination among the bus operators similarly situated though there can be different provisions for bus operators who are not similarly situated.

(9) Since any condition in the permit can be changed, it would be always open to any individual operator or group of operators to seek for any alteration in the route by filing application, which can always be considered by the Regional Transport Authority in accordance with law.''

9.The petitioner's counsel kept on insisting that the impugned proceedings were issued without notice to him. I decline to countenance the said objection. The permit holder was a regular stage carriage operator. It is impossible that the scheme under the Rule 245 of the Motor Vehicles Rules, would have been issued without publication. When a new bus stand had been constructed and has been operational since the year 2002, the petitioner obviously was aware of the same. Therefore, the petitioner ought to have challenged the scheme issued under Rule 245 of the Motor Vehicles Rules then and there. It probably suited the petitioner not to challenge during the relevant time. When the authorities begun to enforce their norms in the year 2016, the permit holder feeling the pinch chose to approach this Court.



10.I find no ground to grant relief. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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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:

The Secretary,
Regional Transport Authority,
Sivagangai.

+1 CC to The SPL GP (SR-14413[F] dated 19/08/2020)

W.P. (MD)No.2117 of 2016

17.08.2020

CS (26.08.2020) 5P 3C