BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.24842 of 2019
and
W.M.P.(MD)No.21439 of 2019

T.Vasantha ... Petitioner

Vs.

1.The Regional Transport Authority,
Madurai.

2.The Secretary,
Regional Transport Authority Cum
The Regional Transport Officer,
Madurai (Central),
Madurai. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the impugned order of the 1st respondent vide 6469 (b)/A5/2019 dated 01.04.2019 in cancelling the minibus permit of the petitioner on the route from Nataraj Theatre to Prasanna Colony in respect of vehicle bearing Registration No.TN 58 L 6493, quash the same and to grant such further or other order or orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.S.Govindraman

For Respondents : Mr.S.Angappan,
Government Advocate

O R D E R

Heard the learned counsel on either side.

2.The petitioner is holding a mini bus stage carriage permit. The petitioner states that the vehicle was off the road since September 2016. The petitioner states that he was having some finance crisis during the relevant time. The petitioner also did not pay the motor vehicle tax dues. Therefore, notice was issued to the petitioner and by the impugned order dated 01.04.2019, the permit was also cancelled. Questioning the same, this writ petition came to be filed.

3.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. The prayer in the writ petition is opposed by the respondent authority. They have also filed a detailed counter affidavit.

4.I carefully considered the rival contentions and went through materials on record. It is seen that the permit came to be cancelled primarily for two reasons. Firstly the petitioner was in arrears of tax. Secondly, the fitness certificate in respect of the petitioner's vehicle was also not renewed. The petitioner successfully challenged the same in W.P.(MD)No.25246 of 2019 dated 27.11.2019.

5.A careful perusal of the materials on record indicate that the petitioner has since cleared the tax arrears. The petitioner's counsel asserts that as on date the petitioner is not having any default. The petitioner's vehicle has also been issued with a fresh fitness certificate. The learned Judge of this Court while allowing W.P.(MD)No.25246 of 2019 vide order dated 27.11.2019 directed as follows:-

> ''*4. A perusal of the letters dated 15.11.2019 reveals that the cancellation of permit, pursuant to non-payment of tax upto 31.03.2019, was the basis for the above said orders. Since the petitioners have compounded the offence as early as on 24.05.2019 and paid the motor vehicles tax till June, 2019 and the cancellation orders were also stayed by this Court, the second respondent shall re-consider the issue afresh as per Section 86(5) of the Motor Vehicles Act, 1988 and in the light of the stay order granted and the payment made by the petitioners. Hence, a direction is given to the second respondent to re-consider the issue as indicated above, within a period of two weeks from the date of receipt of a copy of this order.*''

6.Section 86(5) of the Motor Vehicles Act reads as follows:-

> ''*(5) Where a permit is liable to be cancelled or suspended under clause (a) or clause (b) or clause (e) of sub-section (1) and the transport authority is of opinion that having regard to the circumstances of the case, it would not be necessary or expedient so to cancel or suspend the permit if the holder of the permit agrees to pay a certain sum of money, then, notwithstanding anything contained in sub-section (1), the transport authority may, instead of cancelling or suspending the permit, as the case may be, recover from*

the holder of the permit the sum of money agreed upon.''

7.It is not necessary that for every breach, the permit must be cancelled. The authority can even compound the offence also. Since the tax arrears have been cleared and the fitness certificate has also been renewed, what remains is only compounding of the technical breach committed by the petitioner by not filing the stoppage report. Therefore, I am of the view that this matter that can be compounded.

8.I also note that the order of cancelling the petitioner's permit was stayed when the writ petition was admitted. The petitioner was running the vehicle till the commencement of the lockdown period. On account of the lockdown restrictions, the vehicle is now off the road.

9.The petitioner's counsel also would contend that the Regional Transport Authority, who issued the permit alone will have the jurisdiction to cancel the same. In this case even though the said order has been issued in the name of the Regional Transport Authority, it is only the Regional Transport Officer, who had signed the order. But in the counter affidavit, it has been claimed that it was the Regional Transport Authority who held the enquiry. Be that as it may, taking note of all the antecedents factors, the order impugned in this writ petition deserves to be quashed. It is accordingly quashed. The first respondent is directed to compound the breach committed by the petitioner and pass appropriate orders. The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

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:

1.The Regional Transport Authority,
Madurai.

2.The Secretary,
Regional Transport Authority Cum
The Regional Transport Officer,
Madurai (Central),
Madurai.

+1 CC to M/s.S. GOVINDARAJAN, Advocate (SR-14264[F] dated 17/08/2020)

+1 CC to M/s.The Special Government Pleader (SR-14185[F] dated 17/08/2020)

W.P.(MD)No.24842 of 2019
14.08.2020
(2/2)

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