



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:27.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

WEB COPY

W.P (MD)No.26271 of 2019

and

W.M.P. (MD) .No.22680 of 2019

B.Sivananthi

.. Petitioner

Vs.

The Regional Transport Authority,
Nagercoil,
Kanyakumari District.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to permit the petitioner to operate the mini bus bearing Registration Number TN 49N 0203 while ply on the route Vadasery Bus Stand to Kolathur via Court Road without due process of law.

For Petitioner

: Mr.H.Velavadhas

For Respondent

: Mr.Pandiarajan

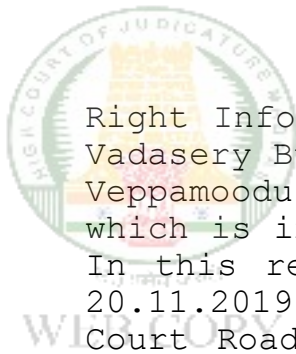
Additional Government Pleader

ORDER

The mini bus permit owner, who is the petitioner, is seeking a direction to permit him to operate the mini bus on the route Vadasery Bus Stand to Kolathur via Court Road.

2.It is stated that the mini bus has been operating from Vadasery Bus Stand via Anna Stadium, Tower Junction, Anna Bus Stand, Edalakudi, Anna Bridge. The total distance of the permit is 4.3 kms, in which, the served sector is 4 kms. Now, the District Authority introduced one way scheme in Nagercoil City. After declaring the one way scheme, the permit of the petitioner was affected in the return journey from Kolathur to Vadasery Bus Stand, particularly Anna Bus Stand to Vadasery Bus Stand. It is very difficult for the petitioner to operate the mini bus from Anna Bus Stand, Ozhugunacherry, Vadasery Junction, which reached more than 3.7 kms.

The petitioner also seems to have obtained information under the



Right Information Act that the distance from Veppamoodu Junction to Vadasery Bus Stand through Court Road is only 2.4 kms, whereas, from Veppamoodu to Vadasery Bus Stand, via Anna Bus Stand is 3.7 kms, which is in excess of the distance than the permitted served sector. In this regard, the petitioner also had given a representation on 20.11.2019 permitting him to reach the Vadasery Bus Stand through Court Road. Since no effective steps have been taken, the present writ petition is field.

3.The learned Additional Government Pleader appearing for the respondent filed a counter affidavit stating that in the return journey, the mini bus is directed to be operated on the alternative route via Kolathur, Beach Road, Hindu College Road, Chettikulam Junction, Veppamoodu Junction, Anna Bus Stand, Ozhuginasery, Vadasery Junction. So that the public travelling from Kolathur can reach the nearest bus stand(Anna Bus Stand). Admittedly, the said route is to an extent of 6.4 kms, which is exceeding the served sector limit.

4.In the present case, if the petitioner takes the alternative route, from Anna Bus Stand, Ozhugunacherry, Vadasery Junction, it is totally 3.70 kms, whereas, if the petitioner takes the route from Veppamodu through Court road to Vadasery bus stand, it is only 2.40 kilometers. Therefore, the petitioner seeks permission to operate the vehicle through the Court road to save 1.3 kms in the served sector.

5.In fact, the issue involved in this petition has already been dealt with elaborately by this Court in W.P.(MD).No.99 of 2019, dated 28.01.2020, wherein, it is held as follows:

"8. 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."

6. In view of the above, the respondent is directed to consider the representation of the petitioner dated 20.11.2019, taking into account the order passed by this Court in W.P.(MD).No.99 of 2019 dated 28.01.2020 and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

The Regional Transport Authority,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.SPL.GP (SR-3670[F] dated 29/01/2020)

+1 CC to M/s.H.VELAVADHAS, Advocate (SR-3291[F] dated 28/01/2020)

W.P (MD) No.26271 of 2019
and
W.M.P. (MD) .No.22680 of 2019

KK/SAR/12.02.2020/5P-4C/