

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 08.09.2021	Orders pronounced on 07.10.2021
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THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(NPD) Nos.539 and 540 of 2021

N.Henry ... Petitioner in both CRPs.

Vs

1. Regional Transport Officer/Authority
Marthandam
Marthandam Post
Kanyakumari District

Now at
Regional Transport Officer/Authority
Marthandam @ Kolipoorvilai
Mulagumoodu Post
Kanyakumari District.

2. The State of Tamil Nadu
represented by its Secretary to Government
Home (Transport) Department
Fort St. George, Chennai -600 009.

... Respondents in both CRPs.

C.R.P.(NPD) No.539 of 2021 is filed under Article 227 of the Constitution of India, praying to set aside the order dated 02.01.2019 passed

in M.V.Appeal No.177 of 2015 on the file of State Transport Appellate Tribunal, Chennai, confirming the order of the respondent in R.No.37010/A3/14 dated 06.11.2015 rejecting the application dated 29.07.2015 for grant of stage carriage permit.

C.R.P.(NPD) No.540 of 2021 is filed under Article 227 of the Constitution of India, praying to set aside the order dated 02.01.2019 passed in M.V.Appeal No.18 of 2015 on the file of State Transport Appellate Tribunal, Chennai, confirming the order of the respondent in R.No.37010/B1/14 dated 14.11.2014 rejecting the application dated 21.01.2011 for grant of stage carriage permit.

For Petitioner in both CRPs. ... Mr.R.Kannan

For Respondents in both CRPs... Dr.S.Suriya
Government Advocate

COMMON ORDER

C.R.P.(NPD) No.539 of 2021 is filed challenging the order passed in MV Appeal No.117 of 2015 on the file of State Transport Appellate Tribunal, Chennai, confirming the order of first respondent in R.No.37010/A3/14 dated 06.11.2015 rejecting the application dated 29.07.2015 for grant of stage carriage permit.

2. C.R.P.(NPD) No.540 of 2021 is filed challenging the order passed in MV Appeal No.18 of 2015 on the file of State Transport Appellate Tribunal, Chennai, confirming the order of first respondent in R.No.37010/B1/14 dated 14.11.2014 rejecting the application dated 21.01.2011 for grant of stage carriage permit.

3. Learned counsel for the petitioner submitted that the petitioner submitted applications dated 21.01.2011 and 29.07.2015 for grant of stage carriage permit. In the application dated 21.01.2011 he requested the grant of stage carriage permit in the route from Nagercoil (Meenakshipuram) to Thothoor (via Parvathipuram, Thuckalay-thuckalay, kaliyakkavillai, Kozhivillai Villakku, Mangadu, Kanchanpuram and Nithiravilai). In application dated 29.07.2015, he requested grant of stage carriage permit in the route from Nagercoil (Meenakshipuram) to Thothoor (via Parvathipuram, Thuckalay-Thoduvatti, Kaliyakkavillai, Kozhivillai Vilakku, Thaiyamudu, Konacheri, Sriacodu and Nampali). These applications came to be rejected by the Regional Transport Authority on 14.11.2014 and 06.11.2015 respectively. Against the said orders, he preferred MV appeal

Nos.18 of 2015 and 177 of 2015. Both appeals were dismissed and therefore, these Civil Revision Petitions are preferred.

4. Learned counsel for the petitioner submitted that there is no public transport available in the routes for which the petitioner sought stage carriage permit. In fact, Writ Petitions in this regard were filed and Writ Petitions were disposed giving direction to the transport authority to consider the request and pass orders. Either the Tamil Nadu State Transport Corporation should ply vehicles in these routes to help the public for easy commutation or allow the private operators to ply the buses. However, the respondent Tamil Nadu State Transport Corporation has not chosen to either ply buses in these routes or allow the private operators to ply the buses. Therefore, the learned counsel for the petitioner prayed for setting aside the order of learned Judge, State Transport Appellate Tribunal, Chennai and for granting permission to the petitioner for plying bus services in these routes.

5. Learned counsel for the respondents opposed these petitions on

the ground that as per Tamil Nadu Motor Vehicles (Special Provisions) Act 1992, private operators are not permitted to ply the buses and only the State Transport Corporation can ply the buses. In fact, Tamil Nadu State Transport Corporation is plying buses in all the moffusil routes in Kanyakumari District. The Regional Transport Officer has no power to grant stage carriage permit as per the provisions of new Motor Vehicles Act 41 of 1992. Therefore, the applications filed by the petitioners were rejected.

6. Considered the submissions and perused the records.

7. Perusal of the records shows that the applications filed by the petitioner were rejected on the ground that there is no provision for grant of permit to the petitioner under Tamil Nadu Motor Vehicles (Special Provisions) Act 1992. In fact, the grant of permit to private operators is prohibited under the Act.

8. Section 6(4) of Tamil Nadu Motor Vehicles (Special

Provisions) Act 1992, reads that,

“Notwithstanding anything contained in this Act, no new permit shall be granted under this Act to any person on any route covered by an approved scheme”.

9. Section 7 of Tamil Nadu Motor Vehicles (Special Provisions) Act 1992, reads that

“Notwithstanding anything contained in any law for the time being in force, every application for grant of new permit on a notified route and all appeals arising therefrom or relating thereto, made or preferred before the date of publication of this Act in the Tamil Nadu Government Gazette, and pending before any Court with any office authority or Tribunal constituted under the Motor Vehicles Act, on the said date shall abate.”

10. Section 103(2)(a) of Motor Vehicles Act, 1988 reads that,

“103. Issue of permits to State transport undertakings

(1)

(2) For the purpose of giving effect to the approved scheme in respect of a notified area or notified route, the State Transport Authority or, as the case may be, the

Regional Transport Authority concerned may, by order,—

(a) refuse to entertain any application for the grant or renewal of any other permit or reject any such application as may be pending; ”

11. Combined reading of these provisions make it clear that new permit cannot be granted on a notified area. It is also found that the permit was granted to Tamil Nadu State Transport Corporation to ply the vehicles in all the mofussil routes in Kanyakumari District. The learned Transport Appellate Tribunal has considered all these aspects and rightly dismissed the appeals filed by the petitioner. This Court finds no reason to interfere with the orders of the learned Transport Appellate Tribunal and the orders of learned State Transport Appellate Authority, Chennai passed in M.V.Appeal Nos. 18 of 2015 and 177 of 2015 dated 02.01.2019 are confirmed and these Civil Revision Petitions are dismissed. No costs.

mra

Index : Yes / No

Internet : Yes / No

Speaking order : Yes / No

07.10.2021

To,

1. The Secretary to Government
The State of Tamil Nadu
Home (Transport) Department
Fort St. George, Chennai -600 009.
2. State Transport Appellate Authority,
State Transport Appellate Tribunal, Chennai
3. Regional Transport Officer/Authority
Marthandam
Marthandam Post
Kanyakumari District

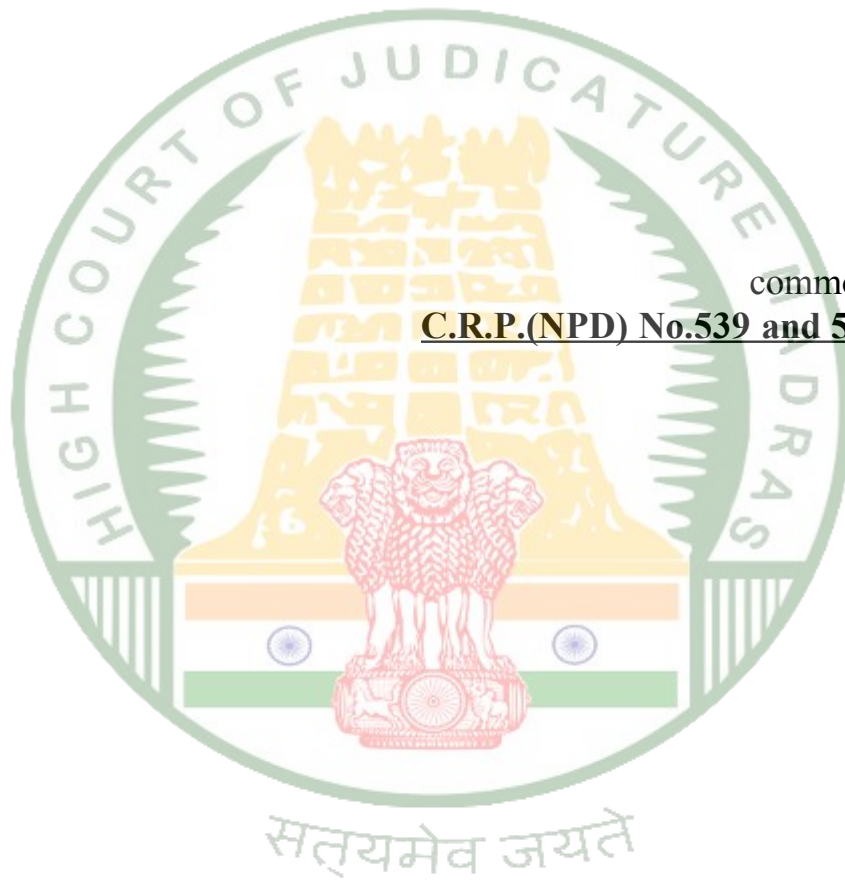
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G.CHANDRASEKHARAN, J.

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common order in
C.R.P.(NPD) No.539 and 540 of 2021

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