

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 11037 of 2021
and
W.M.P. No. 11685 of 2021

Sri Kailash Women's College
Represented by its Secretary
Periyeri, Thalaivasal (Via)
Attur Taluk, Salem District - 636 112. ...Petitioner

Vs.

1. The Transport Commissioner
Chepauk, Chennai - 600005.
2. The Deputy Transport Commissioner
Salem Zone, Salem - 636 005.
3. The Regional Transport Officer
Attur, Salem - 636 102. ...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Third Respondent to consider the representation of the Petitioner dated 26.03.2021 requesting to accept Stoppage Forms for the period upto 31.03.2021 with requisite fees under Rule 172(6) of the Tamil Nadu Motor Vehicle Rules 1989 for the 17 educational institution vehicles of the Petitioner in line with the instructions issued by the First Respondent in Letter R.No. 19026/A1/2020 dated 09.03.2021.

For Petitioner : Mr. Muthumani Doraisami

For Respondents: Mr. P.Chinnadurai (For R1 to R3)
Additional Government Pleader

O R D E R

By consent of both parties, this Writ Petition is taken up for final disposal, at the time of admission itself.

2. This Writ Petition has been filed for a direction to the Third Respondent to consider the representation of the

Petitioner dated 26.03.2021 requesting to accept Stoppage Forms for the period upto 31.03.2021 with requisite fees under Rule 172(6) of the Tamil Nadu Motor Vehicle Rules 1989 for the 17 Educational Institution vehicles of the Petitioner, in line with the instructions issued by the First Respondent in Letter R.No. 19026/A1/2020 dated 09.03.2021.

3. The facts of the case would run thus:

3.1 The Petitioner College is run by M/s.Om Sri Vivekananda Educational Trust and is having several buses for transporting the students and faculty members from and to their residence and they have been promptly paying the road tax levied by the Department.

3.2 In view of the complete lock-down announced by the Government from 24.03.2020 on account of pandemic Covid-19, the Petitioner College was closed and there was no possibility for them to ply the transport vehicles and therefore, they are entitled to avail Road Tax exemption under the "non-use clause facility" for the entire lock down period, as per Rule 11 of Tamil Nadu Motor Vehicles Taxation Rules, 1974.

3.3 However, such exemption was not granted, which compelled M/s. Om Sri Vivekananda Educational Trust to file W.P. No. 9509 of 2020. By common order dated 12.10.2020, the said Writ Petition along with batch of cases, were disposed of by recording the communication of the First Respondent dated 30.09.2020 addressed to all the Regional Transport Officers regarding submission of Nil Assessment Tax for non-operation period (Stoppage Forms) under Rule 172(6) of the Tamil Nadu Motor Vehicles Rules, 1989 on payment of requisite fees.

3.4 After granting permission by the Government, the Petitioner College was reopened and out of 29 buses, they operated only 12 buses, after paying the Road Tax and parked the remaining 17 buses within the College premises without operation.

3.5 While so, the First Respondent by communication dated 09.03.2021, issued instructions to all the Regional Transport Officers to accept Stoppage Forms for the period upto 31.03.2021 with requisite fees and to take action for "Nil Assessment of Tax" for the non-operation period.

3.6 However, the Regional Transport Officer, Attur, Salem District, i.e., the Third Respondent herein declined to accept the stoppage charges for the 17 buses of the Petitioner, which are parked without operation. Hence, the petitioner submitted a representation dated 26.03.2021 to the Third Respondent in this regard. Finding no response on the same, the Petitioner is before this Court with the present Writ Petition.

4. Heard Mr. Muthumani Doraisami, Learned Counsel for the Petitioner and Mr. P.Chinnadurai, Learned Additional Government Pleader, taking notice for the First to Third Respondents and

also perused the materials placed before this Court, apart from the pleadings of the parties.

5. Considering the limited relief as sought for in this Writ Petition, this Court, without going into the merits of the case, directs the First Respondent to consider the representation of the Petitioner dated 26.03.2021, in the light of the proceedings of the First Respondent dated 09.03.2021 and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of hearing to the Petitioner within a period of four (4) weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

Maya

To

1. The Transport Commissioner
Chepauk, Chennai - 600005.
2. The Deputy Transport Commissioner
Salem Zone, Salem - 636 005.
3. The Regional Transport Officer
Attur, Salem - 636 102.

+1 CC to The Government Pleader sr 26794.

+1 CC to M/s. Muthumani Doraisamy, Advocate sr 26394.

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SR II (CO)
SP(12/07/2021)