



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.2041 of 2021

WEB COPY

N.Suyambu Rajan

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District, Nagercoil.

2.The Regional Transport Authority,
Nagercoil, Kanyakumari District.

3.R.Sivananthi

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 and 2 to renew the mini bus permit to vehicle bearing Registration No.TN 74 L 8815 based on the joint application filed by the petitioner and his vendor on 19.09.2013 without insisting on no objection certificate from the third respondent.

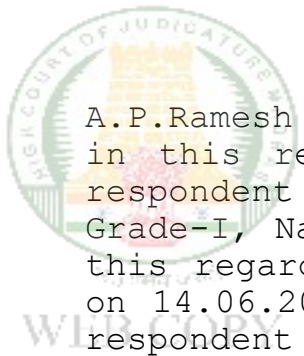
For Petitioner : Mr.V.P.Rajan for Mr.B.Jeyakumar

For Respondents 1&2 : Mr.G.Arjunan, Government Advocate

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for R1 and R2. When the matter was listed for admission on 05.02.2021, this Court ordered notice to the third respondent returnable by 05.03.2021. Service has since been effected and the name of the third respondent is printed in the cause list. But there is no appearance on behalf of the third respondent.

2.The case of the petitioner is that one Thiru.A.P.Ramesh was granted mini bus permit to ply on the petition mentioned route. The petitioner had purchased the mini bus bearing Registration No.TN 74 L 8815. In the affidavit filed in support of the writ petition, the petitioner had stated that all the transfer formalities had been fully satisfied and joint application was filed by the petitioner along with the vendor Thiru.A.P.Ramesh on 19.09.2013 before the second respondent. A copy of the said application is enclosed at Page No.5 of the typed set of papers. The petitioner's vendor



A.P.Ramesh had also given a declaration before the second respondent in this regard. It is seen from the proceedings of the second respondent issued in September 2013 that the Motor Vehicle Inspector Grade-I, Nagercoil was called upon to verify and submit a report in this regard. The said inspecting authority had submitted a report on 14.06.2014 in favour of the petitioner. Thereafter, the second respondent had issued a communication dated 22.01.2015 calling upon the parties to appear in person. The papers submitted by the petitioner had also been returned. The petitioner submitted a representation on 05.05.2015 informing the Regional Transport Officer, Nagercoil that they are ready to appear for enquiry.

3. Accordingly, one more notice was issued on 26.11.2015 calling upon the parties to appear on 07.12.2015. It appears that the petitioner's vendor could not appear. In this background, the fitness certificate for the petition mentioned bus got expired. The bus permit had to be renewed. Therefore, the petitioner submitted one more representation calling upon the second respondent to transfer the mini bus permit in his favour by taking note of the joint application originally submitted. Since the second respondent did not act on the said request, the present writ petition came to be filed.

4. The learned Government counsel pointed out that transfer of permit could have been made only in terms of Section 82(1) of the Motor Vehicles act, 1988. The provision contemplates that permit cannot be transferred from one person to another except with the permission of the authority which granted permission. In the very nature of things, holding of enquiry is essential. In the case on hand, appearance of the parties was ordered. The petitioner's vendor did not appear. Therefore, the authority was left with no other option but to return the papers. The authority cannot be blamed at all.

5. I certainly find the said contention put forth by the learned Government counsel to be persuasive. But the facts obtaining in this case are a bit peculiar. The permit in question originally stood in the name of Thiru.A.P.Ramesh. There can be no doubt that Thiru.A.P.Ramesh had transferred the same in favour of the petitioner and the inspection report given by the Grade-I Motor Vehicles Inspector, Nagercoil supports the said stand. It is stated by the petitioner in the affidavit filed in support of the writ petition that Thiru.A.P.Ramesh was suffering from terminal illness and after signing the joint application form, he left for Chennai and subsequently passed away also. The petitioner was simply not aware of the whereabouts of Thiru.A.P.Ramesh for a very long time. Only in November-2020 when the wife of Thiru.A.P.Ramesh came down to Nagercoil to dispose of another mini bus, the petitioner became aware of the details. The petitioner's counsel fairly states that there is absolutely no rival claim whatsoever. Till date, the third respondent has not raised any objection at all. Even before this



Court also, she has not chosen to appear to controvert the stand taken by the petitioner.

6.As a result of the indifference of the third respondent, the mini bus could not be operated. It is well settled that operation of stage carriage permit is essential for the benefit of the general public. If I approach the issue as one of transfer of permit of a person who is no more, then, as rightly pointed out by the learned Government Advocate, Rule 214 of the Tamil Nadu Motor Vehicles Rules will come into play. The said Rule contemplates getting of "NOC" from all the legal heirs of the deceased permit holder. In the case on hand, the legal heirs of the permit holder, particularly, wife, are totally indifferent. They are not likely to appear. Hence, invoking Section 82(2) of the Motor Vehicles Act, 1988 is not going to serve any purpose.

7.As rightly pointed out by the learned counsel for the petitioner, even though the joint application was filed as early as on 19.09.2013, follow up action was not taken immediately. Only in April 2014, the Motor Vehicle Inspector Grade-I, Nagercoil was called upon to make inspection. The said official conducted the inspection and submitted a report in favour of the petitioner on 14.06.2014. Thus, there has been a lapse of almost nine months. Since Thiru.A.P.Ramesh was suffering from terminal illness, he appears to have left Nagercoil for Chennai but without informing others about his whereabouts. In this factual background, the petitioner knocked the doors of this Court. I am therefore, of the view that the second respondent can very well act on the basis of the original joint application dated 19.09.2013 and the report of the Motor Vehicles Inspector Grad-I, Nagercoil submitted on 14.06.2014. In as much as the petitioner's application is not contested by the legal heirs of the vendor, namely, the third respondent before this Court, I direct the respondents 1 and 2 to renew the petition mentioned mini bus permit and also issue fitness certificate for the petition mentioned vehicle without insisting on any NOC from the third respondent.

8.The writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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.

Skm

To

1.The District Collector,
Kanyakumari District, Nagercoil.

2.The Regional Transport Authority,
Nagercoil, Kanyakumari District.

+1 CC to M/s.SPL GP (SR-10579[F] dated 11/03/2021)

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GS (22.03.2021) 4P 4C