



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.09.2021**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.9233 of 2021

and

W.M.P.(MD)No.6962, 6963, 8306, 14354 of 2021

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S.Rajendra Prasad

...Petitioner

-Vs-

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

2.The General Manager,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Nagercoil Region,
Kanyakumari District.

...Respondents

(R2 is impleaded vide order dated 03.08.2021 in WMP(MD) No.9739 of 2021)

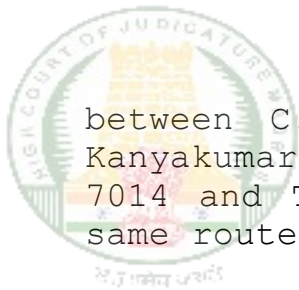
Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent made in his proceedings in 3893/A3/2019 dated 21.04.2021 and quash the same and to permit the petitioner's mini bus to operate via Savariyor Church, Chettikulam Junction in Vehicle Nos. TN 74 E 7014 & TN 74 F 8636, within the period stipulated by this Court.

For Petitioner	: Mr.H.Velavadhas
For R-1	: Mr.D.Ghandiraj
	Government Advocate
For R-2	: Mr.R.Rajamohan
	Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, to call for the records of the first respondent made in his proceedings in 3893/A3/2019 dated 21.04.2021 and quash the same and to permit the petitioner's mini bus to operate via Savariyor Church, Chettikulam Junction in Vehicle Nos. TN 74 E 7014 & TN 74 F 8636.

<https://hcservices.courtsgov.in/services/> 2. The petitioner has been given a mini bus permit in the route



between C.B. Hospital and Melakaruppakottai in Nagercoil Town, Kanyakumari District, in respect of the vehicle numbers, TN 74 E 7014 and TN 74 F 8636, both are A service and B service in the same route. The permit is valid upto 04.12.2022.

3. In the year 2000, the State Government has taken a policy decision to permit the mini buses to go inside the bus stand, so that the travelling public will have the full benefit of mini bus scheme. Based on the such policy decision, the Transport Commissioner of Tamil Nadu has issued a Circular in letter R.No.90919/E2/2000 dated 29.11.2000 to all the regional transport authorities to implement the Government's policy decision, subject to the condition that served area of the route should be within 4 kms. The said Circular has been upheld by a decision of this Court in WP(MD)No.1854 of 2001 dated 11.02.2002.

4. Accordingly, the petitioner has been operating the mini bus from C.B. Hospital to Melakaruppakottai. The total distance of the mini bus route is 4.4 kms, out of which, 3.4 kms is served sector and 1 km is unserved sector.

5. When this operation of the mini bus of the petitioner was continuing for sometime, the stretch between C.B. Hospital and Kottar Police Station has been declared to be a one way. With a result, there has been a revisit of the permit route of the mini bus permit of the petitioner by the transport authorities. Resultantly, they have issued an order on 29.12.2017, whereby the following alternative route towards the return journey had been permitted.

"Permitted Route: C.B. Hospital to Melakaruppakottai (Via), SMRV Higher Secondary School, Vadasery Stadium, Tower Junction, Anna Bus stand, Govt. Hospital, Vadiveeswaram, North Car Street, Ootuvalmadam."

6. With a result, during the return journey, the mini bus has to operate from Melakaruppakottai via Kottar Police Station, St.Xavier Church, Chettikulam Junction, Veppamoodu Junction, Anna Bus stand, Ozhukinnasery to reach C.B. Hospital.

7. In this context, it is the difficulty experienced by the petitioner that by taking this alternative route, which is according to the petitioner is a circuitous one. The petitioner, while return journey has to travel 7 kms totally to reach the destination and the entire total 7 kms is served area.

8. Therefore, the petitioner sought for permission to have an alternative route from Veppamoodu junction to C.B. Hospital via

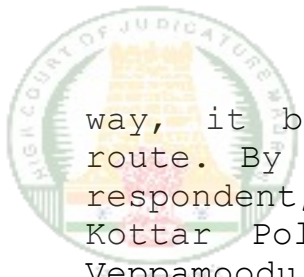


stand, Anna Statue. If this alternative route, suggested by the petitioner is considered, that would be beneficial for both the petitioner as well as the commuters, according to the petitioner. Therefore, as against the order passed by the Transport Authority and also to seek for considering the request of the petitioner, he had filed a writ petition in WP(MD)No.6649 of 2019. The said writ petition having been considered was disposed by a learned Judge of this Court, by order dated 13.07.2020, where he has stated that whether the stretch between C.B. Hospital and Kottar Police Station, which was originally declared to be one way is still continuing to be one way or not is not known to this Court and therefore, taking into account that aspect as well as taking into account of the Circular dated 29.11.2000 issued by the Transport Commissioner, the petitioner's request afresh to be submitted in this regard shall be considered by the Transport Authority and fresh order shall be passed.

9. Pursuant to the said direction of this Court as referred to above, having considered fresh representation submitted by the petitioner for plying mini bus of the petitioner, while return journey in the alternative suggested route, the same was rejected by the first respondent ie., Regional Transport Authority, Nagercoil, by order dated 21.04.2021. Felt aggrieved over the said order passed by the first respondent, the present writ petition has been filed with the aforesaid prayer.

10. While hearing of the writ petition, an impleading petition was filed by the General Manager, Tamil Nadu State Transport Corporation (Tirunelveli) Limited to implead him as one of the party respondent in this writ petition on the ground that they are already having a permit and serving the route between Veppamoodu Junction to C.B. Hospital and therefore, if at all the claim now made by the petitioner to have an alternative route from Veppamoodu Junction to C.B. Hospital is considered, that will be an overlapping of the route already been given to the second respondent, hence, that will have an impact on the said route, where the buses are being plied by the second respondent Transport Corporation. Accordingly, the second respondent was impleaded as one of the party respondent in this writ petition.

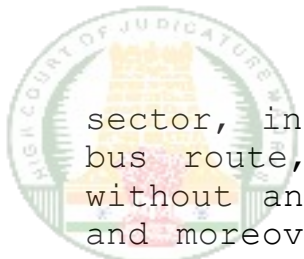
11. In support of the contention raised by the petitioner through the affidavit filed in this writ petition, Mr.H.Velavadas, learned counsel for the petitioner has submitted that originally the route in both directions was given between C.B. Hospital to Melakaruppakottai via Anna Statue, Anna Bus Stand, Kottar Police Station, to reach Melakaruppakottai, which is a straight route and in return journey also, the same route has been permitted. However, after sometime, since the stretch between C.B. Hospital and Kottar Police Station has been declared as one



way, it became necessity to take an alternative or circuitous route. By thus, the present alternative route given by the first respondent, between Melakaruppakottai, and C.B. Hospital via., Kottar Police Station, St.Xavier Church, Chettikulam Junction, Veppamoodu Junction, Anna Bus stand, Ozhukinnasery, Anna statue is a very circuitous route, within which upto Veppamoodu junction, there has been no option to take that route. However, from Veppamoodu junction, the permitted route is to take right direction, through Anna Bus stand, Avvai Shanmugam Road, Ozhukinnasery and Anna Statue, to reach C.B. Hospital. Instead, the route between Veppamoodu Junction and C.B. Hospital can be like this, ie., Veppamoodu junction, Duthle School Junction, WCC Junction, Omni bus stand, Vadasery bus stand, Anna Statue, C.B. Hospital. In that route, almost all the buses are being plied and it is a very broad road. Therefore, there could be no impediment for the petitioner to take that route, during the return journey to reach C.B. Hospital. Therefore, that was requested and the same was rejected through the impugned order by stating the reason that, while return journey, the petitioner's mini bus has to touch Anna Bus stand and for the said purpose, the petitioner has been compelled to take a very circuitous route through Anna Bus stand, Avvai Shanmugam Road, Ozhukinnasery and Anna Statue to reach C.B. Hospital, as in that route, no one like the petitioner had been permitted to ply the vehicle and atleast, all the vehicles had been permitted from Veppamoodu junction to reach Anna Statute through Duthle School Junction, WCC Junction, Omni bus stand, Vadasery bus stand, as referred to above.

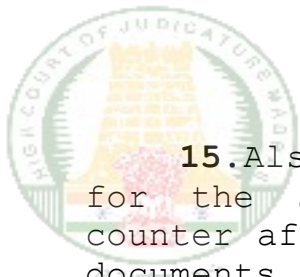
12.The learned counsel for the petitioner would also make submission that, originally the petitioner was directed to serve 3.4 kms and 1 km would be unserved area. Totally, 4.4 kms distance is between C.B. Hospital and Melakaruppakottai. However, as per the present circuitous route as suggested and permitted by the first respondent, the petitioner's mini bus has to travel nearly about 7 kms or more kilometers and the entire stretch is the served area. Though it is 7 kms stretch comes under the purview of the served sector, there is no much bus stops or commuters available in the said route and moreover, in Ozhukinnasery stretch, which is the main junction to reach Nagercoil Town to various outstations, always, there would be a heavy traffic. Therefore, in order to negotiate the route to reach C.B. Hospital, now permitted by the first respondent, the petitioner's vehicle has to take minimum 45 minutes. Therefore, the time schedule given by the first respondent to the petitioner also cannot be maintained.

13.Moreover, as per the Circular dated 29.11.2000 issued by the Transport Commissioner, though a condition has been imposed that overlapping distance of 4 kms should not exceed in the served



sector, in the case in hand, in respect of the petitioner's mini bus route, it has to travel maximum of seven plus kilometers, without any commuters. Therefore, the route itself is not viable and moreover, the distance between Anna Bus Stand and Veppamoodu junction is only 100 feet. Therefore, if the commuters are available at Veppamoodu Junction, they come easily within a few minutes to reach Anna Bus Stand. Therefore, for the said purpose, for alighting people at Anna Bus Stand, the petitioner's mini bus need not be driven to take a circuitous route to travel for nearly about 7 kms to reach C.B. Hospital. Therefore, these aspects since have not been considered in the impugned order and amicably, it has been rejected by the first respondent by stating that only to touch the Anna Bus Stand, which is the main purpose, for which such circuitous route has been suggested to the petitioner, the plea of the petitioner has been rejected. Therefore, the said reason cannot be sustained in the scrutiny of law. Accordingly, the learned counsel for the petitioner would seek indulgence of this Court against the impugned order.

14. Per contra, Mr.D.Ghandiraj, learned Government Advocate appearing for the first respondent, by relying upon the counter affidavit filed by the first respondent would submit that originally though permit was given between C.B. Hospital and Melakaruppakottai by a straight route through Anna Statue and Kottar Police Station, however, the stretch of Anna Statue and Kottar Police Station has become one way. There could be no chance of permitting anyone in the said route in return journey. Therefore, all the vehicles are directed to take a diversion and the diverted route is as stated supra that, St.Xavier Church, Chettikulam Junction, Veppamoodu Junction. However, from Veppamoodu junction if the petitioner is permitted to take a left turn and to take a route to reach C.B. Hospital through Vadasery Bus Stand and if the minibus has to necessarily take alighting point at Anna bus stand, which is the main Bus Stand, wherein lot of commuters from rural areas, who are using mini bus service like the petitioner. Therefore, without touching Anna Bus stand, if the route is approved, that will not serve the purpose for which the mini bus permit had been given. Infact, it has been reiterated by the Transport Commissioner through the said Circular dated 29.11.2000 and therefore, with the said policy decision taken by the Government as reflected through the Circular of the Transport Commissioner, the aforesaid route has been suggested, so that the petitioner's mini bus can touch Anna Bus Stand to reach C.B. Hospital, through Ozhukinnasery and hence, the said reasoning given by the first respondent in rejecting the request of the petitioner through the impugned order is fully justifiable and also, on the basis of policy decision as well as the content of the Circular of the Transport Commissioner, the impugned order does not warrant any interference from this Court.



15. Also, Mr. R. Rajamohan, learned Standing Counsel appearing for the second respondent made submissions relying upon the counter affidavit filed in this regard as well as the typed-set of documents, where he has pointed out that the stretch between Veppamoodu junction and Anna Statute through Duthle School Junction, WCC Junction, Omni bus stand, Vadasery bus stand, Anna Statue is already a permitted route for the second respondent Transport Corporation. Therefore, it will be complete overlapping of the route, for which, the petitioner is not entitled to take permit.

16. In this context, the learned Standing Counsel for the second respondent heavily relied upon the relevant portion of the Circular of the Transport Commissioner dated 29.11.2000, where the following conditions have been imposed.

"Mini Buses may be permitted to go inside the busstand so that the benefit of the scheme reaches the Villagers in full subject to the condition that the overlapping distance of 4 kms should not exceed in the served sector."

By relying upon the said conditions imposed under the Circular of the Transport Commissioner, the learned Standing Counsel would submit that overlapping distance of 4 kms should not exceed in the served sector.

17. Here, in the case in hand, if the alternative route now sought for by the petitioner is permitted, then the whole stretch from Melakaruppakottai to C.B. Hospital, through Veppamoodu junction, Omni bus stand, Vadasery bus stand will be a serving sector and in that serving sector, already operations are there from the second respondent Transport Corporation. Therefore, if such kind of overlapping is permitted, that will go beyond 4 kms maximum permitted route and therefore, that kind of permission sought for by the petitioner is impermissible and therefore, it cannot be granted, he contended.

18. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

19. The only question that arises for consideration before this Court is that whether the reason given by the first respondent in rejecting the plea of petitioner to have an alternative route as suggested by him through the impugned order of the first respondent is justifiable or not.

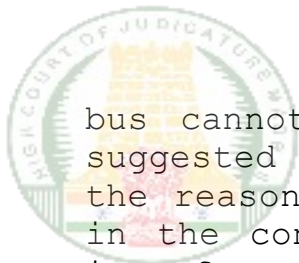
20. In this context, there are three reasons emerging to justify the order otherwise of the impugned order. The first reason is



that insofar as the present direction by the first respondent permitting the petitioner to take circuitous route is because the stretch between Anna Statue and Kottar Police Station has been made as one way. Therefore, in that route, while return journey, nobody can be permitted like the petitioner to take that stretch. Therefore, an alternative route has been permitted. In that alternative route between Kottar Police Station and Veppamoodu junction, there is no dispute and the petitioner has also accepted that route. However, from Veppamoodu junction, now the permitted route to the petitioner is that take a right turn, touch Anna Bus Stand and take left turn to Avvai Shanmugam Road, reach ozhukinnasery and further take left towards C.B. Hospital. Only for this stretch, the petitioner having objection, for which the petitioner's alternative route as suggested by him is that from Veppamoodu junction taking a left side route via Duthle School Junction, WCC Junction, Omni bus stand, Vadasery bus stand, Anna Statue to reach C.B. Hospital.

21.If this route is permitted, there are two violations to be noticed. First violation is that the petitioner will certainly miss the Anna Bus stand, which is an important bus stand, where lot of commuters from rural areas, who are using the mini bus service like the petitioner have to take alighting point at Anna bus stand, that cannot be avoided. Secondly, the stretch from Veppamoodu junction to Anna Statue as referred to above, if it is permitted, that will be a further overlapping route, where the buses of the second respondent Transport Corporation had already been permitted to ply. Therefore, the total overlapping would be more than 4 kms, if we take overlapping area from Kottar Police Station to Anna Statue. That kind of overlapping stretch of more than 4 kms is impermissible in view of the conditions imposed by the Transport Commissioner through his Circular dated 29.11.2000.

22.Therefore, for these three reasons, ie., one is the particular stretch between Anna Statue and Kottar Police Station has become one way. The second reason is that while return journey, the petitioner has to touch alighting point at Anna bus stand and thirdly, stretch between Veppamoodu junction and Anna Statue will be further overlapping area. Therefore, if such route is permitted as proposed by the petitioner, these violations definitely would be taken place, that are impermissible. Therefore, the reasons stated by the first respondent in dealing with the application submitted by the petitioner in this regard are perfectly in tune with the Circular issued by the Transport Commissioner as well as the other aspects like overlapping and touching Anna Bus stand, which is one of the policy decisions taken by the Government that every mini bus must be permitted to touch Anna bus stand and therefore, such policy decision for the purpose of commuters from the rural areas, who are using the mini



bus cannot be defeated by giving such an alternative route, as suggested by the mini bus operator like the petitioner. Therefore, the reasons stated by the first respondent in the impugned order, in the considered view are sustainable and does not warrant any interference.

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23. However, one difficulty has been pointed out by the learned counsel for the petitioner that because of the present alternative route as permitted by the first respondent to the petitioner, it has to take nearly 7 kms or more, which is a circuitous route, that too, in Ozhukinnasery stretch, the petitioner has to negotiate the vehicle with heavy traffic. Therefore, the time schedule given by the first respondent to the petitioner cannot be strictly adhered to. Therefore, an alternative time schedule can be considered and granted to the petitioner. In this regard, the learned Government Advocate appearing for the first respondent would submit that certainly if any such request is made by the petitioner to have an alternative time schedule, that would be objectively considered and accordingly, alternative time schedule would be suggested to the petitioner.

24. Since that stand has been taken by the the learned Government Advocate appearing for the first respondent, having recorded the same, it is open to the petitioner to make such request for having different time schedule to allot the time to be consumed by the petitioner, by taking this alternative route and if any such application is made, that can be considered by the first respondent objectively and orders shall be passed immediately.

25. With this observations, this Court feels that the impugned order since is sustainable, can very well be confirmed and accordingly, this Writ Petition fails. Hence, it is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

PNM/SM

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

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correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The Regional Transport Authority,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.R.RAJAMOHAN, Advocate (SR-30566[F] dated 28/09/2021)
+1 CC to M/s.SPL.GP (SR-30580[F] dated 29/09/2021)

**W.P. (MD) No. 9233 of 2021
and
W.M.P. (MD) No. 6962, 6963, 8306, 14354 of 2021
28.09.2021**

NA (CO)
SB (01.12.2021) 9P 4C