



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.9746 of 2021

T.Nithin

... Petitioner

Vs.

1.The Regional Transport Officer,
Marthandam,
Kanyakumari District.

2.The Motor Vehicles Inspector Grade - I,
Regional Transport Office,
Marthandam,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to consider and pass an order on the petitioner's representation dated 07.04.2021 to give Fitness Certificate in respect of his Mini Bus bearing Registration No.TN 74Y 4063, to ply on the route Thuckalay to Monday Market.

For Petitioners	: Mr.A.C.Asaitambi
For Respondents	: Mr.P.Thilak Kumar
	Standing Counsel for Government
	M/s.J.Anandhavalli
	for impleaded party

ORDER

Mr.P.Thilak Kumar, learned Standing Counsel, accepts notice on behalf of the respondents.

2. By consent, the Writ Petition is taken up for final disposal at the admission stage itself.

3. This writ petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus, directing the second respondent to consider and pass orders on the petitioner's representation, dated 07.04.2021 to give Fitness Certificate, in respect of his Mini Bus bearing Registration No.TN 74Y 4063, to ply on the route Thuckalay to Monday Market.

4(i).The case of the petitioner is that he has owned two mini buses bearing Registration Nos.TN-74-Y-2747 and TN-74-Y-4063 along with route permit, as per the settlement deed, which was executed by one Pankiraj, who was the grandfather of the petitioner,

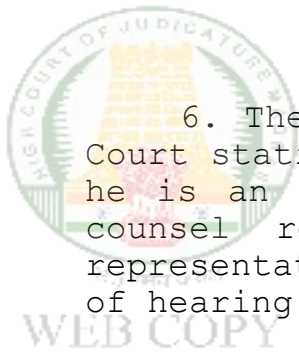


on 22.11.2016. Thereafter, the petitioner's grandfather died on 15.03.2017, which was also intimated to the first respondent on 03.04.2017. Therefore, the petitioner has filed an application before the first respondent, on 25.04.2017, for transfer of permit, which was also rejected on the ground that the petitioner's uncle viz., Yesudasan, who is the one of the legal heir of Pankiraj, has filed a suit in O.S.No.47 of 2017 before the District Court, Kanyakumari, at Nagercoil, for cancellation of settlement deed, which was executed in favour of the petitioner.

4(ii).Against the order of rejection, the petitioner has filed a writ petition in W.P(MD)No.21095 of 2018 before this Court and the said writ petition was allowed and directed the first respondent to effect the transfer permit. Pursuant to which, the first respondent has effected the transfer of permit in one mini bus bearing Registration No.TN-74-Y-2747. The petitioner was not able to produce the another mini bus bearing Registration No.TN-74-Y-4063 to effect the transfer permit, because the said Yesudasan, took the vehicle in his custody. Hence, the petitioner has made a complaint on 13.10.2018 and thereafter, both of them have filed CrI.R.C(MD) Nos.446 and 473 of 2019 before this Court, wherein, this Court directed to hand over the said mini bus to the petitioner with a condition not to alienate or alter the mini bus, whenever required the mini bus, the same shall be produced before the concerned Judicial Magistrate, Eraniel.

4(iii).Against the order passed in W.P(MD)No.21095 of 2018, the said Yesudasan, has filed a writ appeal in W.A(MD)No.1716 of 2018 and the said Writ Appeal was allowed by setting aside the order dated 10.12.2018, passed in the Writ Petition. Against which, the petitioner has filed S.L.P.No.5257 of 2020 before the Hon'ble Supreme Court and obtained an order of interim stay on 02.03.2020 and the same is pending. In such circumstances, the petitioner's uncle filed a memo before the learned Judicial Magistrate, Eraniel, stating that the petitioner has changed the Chassis Number of the said mini bus. The learned Judicial Magistrate, Eraniel, inspected the Mini Bus along with the Head Clerk and passed order on 26.03.2021, rejecting the allegation of the petitioner's uncle stating that the Engine and Chassis numbers are same and the alteration was made only on Glasses, Tyres, and colours and closed the said memo. Thereafter, the petitioner has applied for Fitness Certificate before the second respondent, on 04.07.2021. The petitioner sent a representation dated 07.04.2021 to the second respondent. Since no order has been passed by the second respondent, the present writ petition is filed.

5. The learned counsel for the petitioner would state that it would be suffice if a direction is given to the 2nd respondent to dispose of the representation of the petitioner.



6. The learned counsel Mrs.Anandavalli, represented before this Court stating that one Yesudasan, has to be impleaded as a party, as he is an interested party in this petition. Further, the learned counsel represented that while disposing of the petitioner's representation, the second respondent shall also give an opportunity of hearing to the said Yesudasan.

7. Considering the submissions of the learned counsel for the petitioner as well as the respondents and in the light of the facts and circumstances of the case, without going into the merits of the case projected by the petitioner either in his representation or in this Writ Petition, the second respondent is directed to consider the representation of the petitioner dated 07.04.2021, after affording an opportunity of hearing to Yesudasan, and pass appropriate orders, on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above direction, the writ petition is disposed of. No Costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note:(i) 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.

To:

1.The Regional Transport Officer,
Marthandam,
Kanyakumari District.

2.The Motor Vehicles Inspector Grade - I,
Regional Transport Office,
Marthandam,
Kanyakumari District.

+1 CC to M/s.SPL GP (SR-18946[F] dated 07/06/2021)

+1 CC to M/s.J.ANANDHAVALLI, Advocate (SR-18884[F] dated 07/06/2021
W.P(MD)No.9746 of 2021
04.06.2021

KB(16.06.2021) 3P 5C

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