



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **28.07.2021**

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.12447 of 2021

and

WMP (MD)No.9744 of 2021

WEB COPY

K.Mohamed Abdul Kader

... Petitioner

Vs.

The Regional Transport Authority,
Sankarankovil Region,
Tenkasi.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in R.No.6560/A2/2020, dated 12.05.2021 returning the application of the petitioner, dated 13.03.2020 for grant of stage carriage permit to ply on the route "Puliangudi Bus Stand to Tirunelveli Vaindhakulam MGR New Bus Stand viz., Sankarankovil, Devarkulam and to quash the same and further direct the respondent to take back the same and pass orders on merits and in accordance with law.

For Petitioner : Mr.T.Padmanabhan

For Respondent : Mr.S.Shanmugavel
Govt.Advocate

O R D E R

This Writ Petition has been challenging the order passed by the Regional Transport Authority, Sankarankovil Region, Tenkasi, in R.No.6560/A2/2020, dated 12.05.2021, returning the application of the petitioner, dated 13.03.2020, for grant of stage carriage permit to ply on the route 'Puliangudi Bus Stand' to 'Tirunelveli Vaindhakulam MGR New Bus Stand viz., Sankarankovil, Devarkulam.

2. The petitioner made an application, dated 13.03.2020 for grant of stage carriage permit to ply on the route 'Puliangudi Bus Stand' to 'Tirunelveli Vaindhakulam MGR New Bus Stand viz., Sankarankovil, Devarkulam. Since the application of the petitioner was not considered, the petitioner filed a Writ Petition in W.P(MD) No.16105 of 2020, before this Court and this Court by order dated 18.11.2020 disposed of the said representation and directed the respondents to consider the petitioner's application dated 12.03.2020 for the grant of stage carriage permit and pass final



orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

3. It is the further case of the petitioner that pursuant to the orders, the respondent took up application of the petitioner for consideration and conducted hearing on 29.01.2021. At the time of hearing, the office bearers of Tirunelveli Bus Owners' Association had objected stating that they are to be heard before the representation of the petitioner is considered and therefore, the hearing was adjourned sine die without giving any further date. To his shock and surprise, the respondent vide proceeding in R.No.6560/A2/2010, dated 12.05.2021 returned the application of the petitioner with an instruction to submit the same, when the State Government provide way to grant such permits, by way of modified Notification.

4. The learned counsel appearing for the petitioner would submit that returning the application of the petitioner is highly illegal and improper for the reason that as on date there is no scheme. Further, there is no provision for returning the application either under the Motor Vehicles Act or the Rules made thereunder. As per Section 80(1) of the Motor Vehicles Act, an application for permit of any kind may be made at any time and as per the second proviso to Section 80(2), if the authority wants to refuse grant of permit, it shall give to the applicant in writing with reasons for refusal of the same and an opportunity of being heard in the matter. The order is passed in violation of principles of natural justice, as the hearing scheduled on 29.01.2021 was adjourned and thereafter, no hearing was conducted. Hence, the learned counsel prayed for setting aside the order passed by the respondent, dated 12.05.2021.

5. The Court heard the submissions made by the learned counsels appearing for the petitioner and the learned Government Advocate appearing for the respondent and perused the materials available on record.

6. Perusal of the records would show that the application of the petitioner, dated 12.03.2020, has been simply returned by the respondent stating that the application received beyond the scope of Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992 (Act 41 of 1992). If at all the respondent felt that the application was received beyond the scope of the Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992, he ought to have very well rejected the application rather than returning the same. So that, there will be an opportunity to the petitioner to challenge the same before the appellate authority.

7. For the forgoing reasons, the impugned order passed by the respondent, dated 12.05.2021, is set aside and the matter is remanded to the Authority for fresh consideration. The



petitioner is directed to resubmit the original papers to the respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent is directed to pass orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner and other aggrieved person and pass appropriate orders, within a period of two weeks thereafter.

8. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MPK

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.

To

The Regional Transport Authority,
Sankarankovil Region,
Tenkasi.

+1 CC to M/s.T.PADMANABHAN, Advocate (SR-24245[F] dated 28/07/2021)

+1 CC to M/s.SPL GP (SR-24410[F] dated 29/07/2021)

**W.P (MD) No.12447 of 2021
28.07.2021**

ES(CO)

LR (09.08.2021) 3P 4C