



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.07.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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W.P (MD)No.6205 of 2019

and

W.M.P (MD)No.4958 of 2019

Kanyakumari District Mini Bus Owners Association,
Represented by its Secretary,
P.David Raj

... Petitioner

Vs.

1.The District Collector cum Regional Transport Authority,
O/o.the District Collectorate Campus,
Nagercoil,
Kanyakumari District.

2.The Regional Transport Officer,
O/o.the Regional Transport Office,
Kozhiporvilai,
Mulagumoodu Post,
Marthandam,
Kanyakumari District.

3.The Managing Director,
Tamil Nadu State Transport Corporation,
Tuticorin Road,
Kattapomman Nagar,
Tirunelveli.

4.The General Manager,
Tamil Nadu State Transport Corporation,
Ranithotham,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent to take appropriate action against the respondents 3 and 4 and their subordinates from interfering with the operation of the Mini Buses of the Members of the petitioner's Association and consequently to forbear the respondents 3 & 4 and their subordinates from intercepting the peaceful operation of the Stage Carriage Service of the members of the petitioner's Association by considering the petitioner's representation dated 26.02.2019 within the period that may be stipulated by this Court.



For Petitioner

: Mr..M.Ajmal Khan,
Senior Counsel for
M/s.Ajmal Associates

For R-1 & R-2

: Mr.S.Shanumugavel,
Government Advocate

For R-3 & R-4

: Mr.R.Rajamohan

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ORDER

This writ petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus, directing the first respondent to take appropriate action against the respondents 3 and 4 and their subordinates for interfering with the operation of the Mini Buses of the Members of the petitioner's Association and consequently, to forbear the respondents 3 & 4 and their subordinates from intercepting the peaceful operation of the Stage Carriage Service of the members of the petitioner's Association by considering the petitioner's representation dated 26.02.2019, within a stipulated time.

2. The brief facts of the case are as follows:

(i)The petitioner is the Secretary of the Kanyakumari District Mini Bus Owners Association and the same was registered under the Society Registration Act bearing Registration No.127 of 2000 and there are totally 35 Mini Bus Owners in the Association and there are about 160 Mini Buses are plying in and around the Marthandam Division, which comes under the jurisdiction of the second respondent.

(ii) The grievance of the petitioner is that the third respondent and his officials are interrupting the operation of the Mini Buses and indulged in registering cases against the members of the petitioner's Association, under the guise of inspection. Hence, this writ petition.

3. The learned counsel for the petitioner would submit that even assuming that if the mini buses of the petitioner's Association are involved in any illegality, the officials of the third respondent are supposed to make a complaint about this to the first respondent and it is for the first respondent to take action against the mini bus owners in accordance with law and therefore, prays for appropriate orders.

4. In support of his submissions, the learned counsel for the petitioner would rely on the orders of this Court in W.P(MD) Nos.13937 to 13945 of 2015, dated 01.10.2015.

5.The learned Government Advocate appearing for the respondents 1 and 2 by reiterating the averments made in the counter



affidavit would state that in Marthandam region, more than 160 mini bus permits have been issued and these mini buses are being checked periodically and issued with check reports when irregularities are noticed especially when route course violations are noticed and during 2018-2019 more than 200 check reports have been issued to mini buses in various checking and in none of the checks, the respondents 3 and 4 are participated and the checking are carried out by the competent officials only. It is further stated that the respondents 1 and 2 are not encouraging the respondents 3 and 4, to indulge or participate in the checking conducted by the competent authorities as per Rule 377 of the Tamil Nadu Motor Vehicle Rules.

6.The learned standing counsel appearing for the third and fourth respondents by reiterating the averments made in the counter affidavit would state that the members of the petitioner Association instead of operating the mini buses in the permitted routes, they are deliberately operating the mini buses in the routes which exclusively permitted for plying the TNSTC buses, which caused heavy loss to the respondents 3 and 4. It is further stated that whenever the Mini Bus operators violated the permit conditions, it will be reported to the authorities concerned viz., Regional Transport Officer and police station by the officials of the Management and the same will be dealt in accordance with law and the respondents 3 and 4 never intercepted the operation of the mini buses at any point of time and they have got every right to bring the violation of the permit conditions to the notice of the Transport Department and police to pursue legal process available to them.

7. Heard the submissions made on either side and perused the materials available on record.

8. Admittedly, the members of the Petitioner Association have got a right to ply the vehicles in accordance with the permit conditions and the route prescribed therein. In case, the mini buses are operating the vehicles other than the permitted route, the third and fourth respondents have got a right to bring the same to the notice of the Transport Department and police and it is for them to take appropriate action for violation of permit condition as the same would cause loss to the third and fourth respondents.

9. It is made clear that in case of violations committed by the members of the petitioner Association, the right of the State Transport Corporation to move the appropriate authority has been recognised and the Transport Department and the Police Department have also been directed to take necessary action, in case of pending complaints, by the Tamil Nadu State Transport Corporation.

10. Therefore, the members of the petitioner Association are directed to strictly follow the Rules and in the event of any violation, the respondents 3 and 4, shall pursue the matter by



approaching the respondents 1 and 2 as well as the police Department.

11. With the above direction, the writ petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

pm

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

1. The District Collector cum Regional Transport Authority,
O/o. the District Collectorate Campus,
Nagercoil,
Kanyakumari District.

2. The Regional Transport Officer,
O/o. the Regional Transport Office,
Kozhiporvilai,
Mulagumoodu Post,
Marthandam,
Kanyakumari District.

+1CC to Mr..M.Ajmal Associates, SR.No.23948 dated 27/07/2021

+1CC to Mr.R.Rajamohan, SR.No.23850 dated 26.07.2021

+1CC to M/s. SPL GP.SR.No.24020 dated 27/07/2021

W.P (MD) No.6205 of 2019
26.07.2021

ES (CO)

KB (10.08.2021) 4P 6C