



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P.(MD)Nos.8050 & 8051 of 2019 and

W.M.P.(MD)Nos.6360 & 6361 of 2019

WEB COPY

M/s.Thoothukudi District Bus Owners Association,
Rep. by its President, Thiru.V.S.S.Rama Subbiah,
No.183, Palayamkottai Road,
Thoothukudi - 628 008.

... Petitioner

in W.P.(MD)No.8050 of 2019

M/s.Thoothukudi District Mini Bus Owners Association,
Rep. by its Treasurer, S.Natarajan,
No.38A, Meenatchipuram West, Jeyaraj Road,
Thoothukudi.

... Petitioner

in W.P.(MD)No.8051 of 2019

Vs.

1. The Regional Transport Authority,
O/o.District Collector,
Thoothukudi.

2. The Secretary to Regional Transport Authority,
O/o.District Collector,
Thoothukudi.

... Respondents

in both petitions

Common Prayer: Writ petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertains to the first respondent proceedings made in R.No.13696/B3/2016 dated 09.03.2019, quash the same.

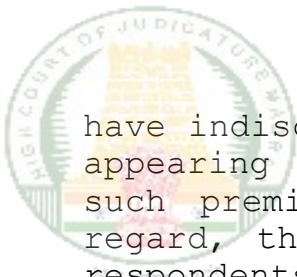
For Petitioner	: Mr.T.Padmanabhan, in both W.Ps
For Respondents	: Mr.S.Angappan, in both W.Ps
	Government Advocate.

C O M M O N O R D E R

Heard the learned counsel on either side.

2. W.P.(MD)No.8050 of 2019 has been filed by the Thoothukudi District Bus Owners Association through its President. W.P.(MD) No.8051 of 2019 has been filed by the Thoothukudi District Mini Bus Owners Association through its Treasurer.

3. The members of the petitioners' Association are plying buses and mini buses on the permitted routes in Thoothukudi. The grievance of the petitioners is that the respondents ought not to



have indiscriminately issued share auto permits. The learned counsel appearing for the petitioners would state that the applicants of such premises are indulging in gross abuse of process. In this regard, the petitioners submitted representations calling upon the respondents not to issue any further share auto permits. Since the said request was not acted upon, the petitioners filed W.P.(MD) No.12610 of 2018 before this Bench and pursuant to the direction issued therein, the respondents held an enquiry inviting the petitioners to clarify their stand. It appears that they did not attend the enquiry. However, taking note of the written representation, the matter was enquired into and the impugned rejection order came to be passed. The authority made it clear that the objection of the writ petitioners stood overruled and that they would grant share auto permits to ply in Thoothukudi Town. The impugned order dated 09.03.2019 was issued to this effect. The same is under challenge in these writ petitions.

4. The learned counsel appearing for the respondents have filed a detailed counter affidavits and opposed the prayer made in the writ petitions.

5. The learned counsel appearing for the writ petitioners reiterated all the contentions set out in the affidavits filed in support of these writ petitions.

6. Per contra, the learned Government Advocate took me through the averments set out in the counter affidavits and called upon this Court to dismiss these writ petitions.

7. I carefully considered the rival contentions and went through the materials on record.

8. Share autos are considered as contract carriages and issuance of permit for share auto is governed by Section 74 of the Motor Vehicles Act 1988. The said provision enables the statutory authority to grant contract carriage permits. Therefore, the statutory authority cannot be restrained from issuing such permits. The question that arises for consideration is whether the respondents should be restrained from issuing any more share auto permits. This question in turn boils down to the number of permits that can be issued by the respondents. Section 74(3) of the Motor Vehicle Act reads as follows:-

74. Grant of contract carriage permit -

(1) ..

(2) ..

(3) (a) The State Government shall, if so directed by the Central Government, having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official



WEB COPY

Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of contract carriages generally or of any specified type, as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than five lakhs.

(b) Where the number of contract carriages are fixed under clause (a), the Regional Transport Authority shall, in considering an application for the grant of permit in respect of any such contract carriage, have regard to the following matters, namely:-

- (i) financial stability of the applicant;
- (ii) satisfactory performance as a contract carriage operator including payment of tax if the applicant is or has been an operator of contract carriages; and
- (iii) such other matters as may be prescribed by the State Government:

Provided that, other conditions being equal, preference shall be given to applications for permits from-

- (i) the India Tourism Development Corporation;
- (ii) State Tourism Development Corporations;
- (iii) State Tourism Departments;
- (iv) State transport undertakings;
- (v) co-operative societies registered or deemed to have been registered under any enactment for the time being in force;
- (vi) ex-servicemen."

9. Pursuant to the power conferred by the aforesaid provision, G.O.Ms.No.277 Home (Tr.VI) Department, dated 22.03.2001 has been issued stating that the Regional Transport Officer, Thoothukudi can issue 50 numbers of the five seater share auto permits. The petitioners herein have not challenged the said Government Order. In view of the parameters set out in the provision for fixing the ceiling limit, it is not for this Court to suggest that this ceiling limit should be further brought down. The respondents have merely applied the aforesaid G.O.Ms.No.277 Home (Tr.VI) Department, dated 22.03.2001. In these writ petitions the Government has not been made as a party and the said Government Order has not been challenged. I find no ground to interfere.

10. These writ petitions are dismissed.

11. As and when any irregularity or illegality has been committed by any permit holder, it is always open to the petitioner associations to bring it to the notice of the respondents and the respondents are bound to take action on any such complaint. The



petitioners' counsel would state that at the time of obtaining permit, there is no necessity to produce the vehicle and the grantee has four months time to produce the vehicle. The petitioners' counsel would state that taking advantage of this provision in the statutory rules, there is a trade going on in the matter of permits. If this allegation is true, the authorities are bound to look into the same and take appropriate action. Therefore, even while sustaining the orders impugned in the writ petitions, which merely gives effect to the policy decision taken by the Government, I make it clear that the petitioner associations are always at liberty to lodge complaint and bring it to the notice of the authority, any irregularity that may be committed by the grantees. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// 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.

To:

1. The Regional Transport Authority,
O/o.District Collector,
Thoothukudi.
2. The Secretary to Regional Transport Authority,
O/o.District Collector,
Thoothukudi.

+1CC to M/s.SPL GP,SR.No.7537 dated26.02.2021

W.P. (MD) Nos.8050 & 8051 of 2019
25.02.2021

SMV (CO)
KB(12.03.2021) 4P 4C