



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18524 of 2019

and

W.M.P. (MD)Nos.14927 and 14929 of 2019

Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Trichy Region,
Tiruchirappalli-620 001,
Rep. by its General Manager. ... Petitioner

Vs.

1.The Secretary,
State Appellate Tribunal,
Chennai.

2.The Regional Transport Officer,
Trichy District, Tiruchirappalli.

3.K.Balamurugan ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the order passed by the Respondent No.1 in Appeal No.1029 of 2004 dated 17.08.2007 quash the same.

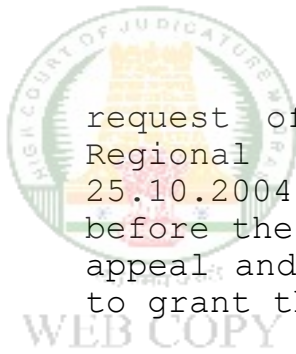
For Petitioner : Mr.D.Sivaraman

For Respondents : Mr.M.Rajaraman,
Additional Govt. Pleader for R1 & R2.
Mr.A.C.Asaithambi for R3

ORDER

Heard the learned counsel on either side.

2.The State Transport Corporation challenges the order dated 17.08.2007 passed by the State Transport Appellate Tribunal, Chennai in Appeal No.1029 of 2004 filed by the third respondent herein. The third respondent is holder of mini bus permit to ply on the route from Musiri Taluk Office to Kulithalai Kadambarkovil. The third respondent applied for variation of the route by changing the terminus so that he could ply upto Kulithalai Bus Stand. The



request of the third respondent was originally declined by the Regional Transport Officer, Tiruchirapalli, vide order dated 25.10.2004. Questioning the same, the appeal was filed by him before the Tribunal. The Tribunal by the impugned order allowed the appeal and directed the Regional Transport Officer, Tiruchirapalli, to grant the variations as sought for by him.

3.The prayer in the writ petition is contested by the third respondent on more than one ground. The learned counsel would point out that the writ petition has to be summarily dismissed on the ground of laches. He would also point out that the order of the Tribunal is well reasoned and that it does not call for any interference.

4.I must straightaway reject the objection predicated on the principle of laches. As rightly pointed out by the learned standing counsel for the petitioner, even though the order was passed as early as on 17.08.2007, the details relating to the impugned order surfaced only when the third respondent filed counter affidavit in W.P.(MD)No.3492 of 2018. There is some controversy as to whether the petitioner made use of the impugned order immediately after obtaining it. The learned standing counsel for the petitioner would claim that the third respondent did not avail the benefit of the impugned order till the year 2018 but the learned counsel for the third respondent would claim that it is not so and that he had been operating upto the route Kulithalai Bus Stand right from the year 2015 onwards.

5.Be that as it may, the fact remains that only in the year 2019, the third respondent/K.Balamurugan filed W.P.(MD)No.3017 of 2019, for directing the authorities to carry out the necessary changes in his bus permit based on the order passed by the Tribunal. The fact that such a writ petition was filed by the third respondent in the year 2019 lends considerable force to the stand now taken by the learned standing counsel for the petitioner. Even though W.P.(MD)No.3017 of 2019 was allowed vide order dated 29.07.2019, it is now stated by the learned standing counsel for the petitioner that its operation has been stayed by the Hon'ble Division Bench in C.M.P.(MD)No.654 of 2021 in W.A(MD)No.218 of 2021.

6.The petitioner's counsel would draw my attention to Section 80 of the Tamil Nadu Motor Vehicles Act, 1988 and contends that in the case of variations, the terminus shall not be altered. The learned counsel for the third respondent would however dispute the said proposition, by placing reliance on the decision of this Court reported in **1994 Writ L.R. 340 (Navaneetham.P and Others V. The Regional Transport Authority, Kamarajar District at Virudhunagar and Another)**. This issue need not gone into by me for the present because the impugned order came to be passed behind the back of the writ petitioner. The writ petitioner is very much an existing



operator operating in the very same route. Therefore, the third respondent ought to have arrayed the writ petitioner as a respondent in Appeal No.1029 of 2004 before the State Transport Appellate Tribunal, Chennai. On this sole ground, the impugned order is vitiated as being violative of the principles of natural justice. Even though there may not be any express statutory provision in this regard, it accords with commonsense and principles of natural justice that all the existing operators are heard before any variation is effected at the instance of one of the operators. On this sole ground, the order impugned in this writ petition is quashed. The writ petition is allowed. The matter is remitted to the file of the first respondent. The third respondent will file an application for impleading the petitioner/Corporation in Appeal No.1029 of 2004 and the Tribunal will allow the same and dispose of the appeal on merits and in accordance with law after hearing not only the petitioner but also the other stakeholders. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(T & P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Secretary,
State Appellate Tribunal, Chennai.
- 2.The Regional Transport Officer,
Trichy District, Tiruchirapalli.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-5529[F] dated 17/02/2021)

+1 CC to M/s.SPL GP (SR-5657[F] dated 17/02/2021)

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