BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.12.2021
CORAM
THE HON'BLE MR. JUSTICE M.SUNDAR
W.P(MD) No.20511 of 2021

K.Paranthaman ... Petitioner

Vs.

1.Union of India,
Rep. by its Secretary,
Department of Heavy Industry,
Ministry of Heavy Industries and Public Enterprises,
Block No. 14 CGO Complex,
Lodhi Road,
New Delhi-110003.

2.Union of India,
Rep. by its Secretary,
Department of Revenue,
Ministry of Finance,
North Block,
New Delhi - 110 001.

3.Union of India,
Rep. By its Secretary,
Department of Empowerment of persons with disabilities,
Ministry of Social Justice and Empowerment,
Antyodaya Bhawan,
New Delhi - 110 003.

4.Union of India,
Rep. By its Under Secretary,
AEI Section,
Department of Heavy Industry,
Ministry of Heavy Industries and Public Enterprises,
No.428, Udyog Bhawan,
New Delhi. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned communication passed in the registration No.DHI-090721141658-1337 on the file of the respondent No.1, through their official website in http://dhigecs.heavyindustry.gov.in/ on 12.07.2021 and the consequential impugne delectronic mail communication dated 11.08.2021 through the respondent No.4 official Electronic Mail and quash the same as illgal, and consequently for a direction, directing the respondent No.1 to extent the GST, Road Tax, Tool Tax and registration concerssion to the petitioner for purchasing a four wheeler in the light of the orders passed by the Hon'ble Court of Chief Commissioner for Persons With Disabilities (Divyangjan) in case No.12149/1141/2020 dated 01.12.2020 within the time period stipulated by this Court.

For Petitioner : Mr. G.Karthik
for M/S.T.Lajapathi Roy

For Respondents : Ms.L.Victoria Gowri,
Assistant Solicitor General of India.

O R D E R

This order will now dispose of the captioned main writ petition.

2. Read this in conjunction with and in continuation of earlier proceedings made in the previous listings on 17.11.2021, 01.12.2021 and 15.12.2021, which read as follows:

'17.11.2021:

Mr.G.Karthik, learned Counsel on record for the writ petitioner, who is before this Court submits that the writ petitioner is a Person With Disabilities [PwD]. Adverting to the Unique Disability Identification Card issued by the Government of India, learned Counsel submits that the percentage of disability is 100% (One Hundred Percent).

2.*Learned Counsel submits that writ petitioner wanted to purchase an automobile, a car. There is a Notification being Notification No.14 of 2019 dated 30.09.2019, is learned Counsel's say. Learned Counsel goes on to say that vide this notification, certain concessions qua GST [Goods and Service Tax], exemption from National Highway Tolls, concession qua Road Tax have been made available to PwD.*

3.*According to the learned Counsel for the writ petitioner, when the writ petitioner wanted to avail the aforementioned concession for the car he intends to purchase, the same was negatived by respondent No.4 on the ground that aforementioned benefit is not available to PwD with the type of disability qua writ petitioner (blindness). It was also pointed out that in another matter, the Court of the Chief Commissioner for Persons With Disabilities ['Disabilities Commissioner Court', for convenience] had made an order dated 01.12.2020 in Case No.12149/1141/2020, wherein the Court of the Disabilities Commissioner had observed that a travel concession PwD should be given* *to all persons with disabilities, irrespective of the type of disability. This observation of the learned Commissioner was made by drawing inspiration from an order made by the Hon'ble Supreme Court in the case of* ***Javed Abidi*** *Vs.* ***Union of India****, decided on 17.12.1998.*

4.*Be that as it may, the aforementioned notification or the aforementioned case law may also have to be placed before this Court as part of the case file. Learned Counsel for the writ petitioner undertakes to do so before the next listing. However, this Court in the course of the hearing verified the official website and found that soft copies of notifications are available but it is desirable that the writ petitioner places the same before this Court.*

5.*Ms.L.Victoria Gowri, learned Assistant Solicitor General of India, accepts notice on behalf of all the four respondents and requests for some time to get instructions and revert to this Court.*

6.*Registry to show the name of learned Assistant Solicitor General in the cause list in and from the next listing. List a fortnight hence, under the cause list caption 'ADJOURNED ADMISSION'.*

7.*List on* ***01.12.2021.***

01.12.2021:

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 17.11.2021.

2.*Today, Mr.Mr.M.Mahaboob Fazil, learned Counsel representing the Counsel on record for writ petitioner and learned Assistant Solicitor ie., Ms.Victoria Gowri, Assistant Solicitor General of India on behalf of all the respondents are before this Court.*

3.*Adverting to earlier proceedings dated 17.11.2021, learned Assistant Solicitor requests for two [2] weeks time to place on record the stated position of the respondents by way of an affidavit / counter-affidavit. Request acceded to. List a fortnight hence. Learned Assistant Solicitor to favour the Counsel for writ petitioner with an advance copy of the affidavit / counter-affidavit before next listing.*

4.*List on* ***15.12.2021.***

15.12.2021:

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on

01.12.2021.

At request of Revenue Counsel, list this matter one week hence.

List on 22.12.2021.'

3. Today, Mr.G.Karthik, learned counsel on record for writ petitioner and Ms.L.Victoria Gowri, learned Assistant Solicitor General of India on behalf of all the four respondents are before me.

4. The aforementioned proceedings, more particularly, the proceedings made in the previous listing on 17.11.2021 captures the crux and gravamen of the issue on hand and the listings also capture the trajectory the matter has taken thus far. The aforementioned proceedings made in previous listings (extracted and reproduced supra) shall be read as integral part and parcel of this order.

5. Today, learned Assistant Solicitor General of India submits that instructions have since been obtained. Learned Assistant Solicitor General of India submits that the Ministry of Social Justice and Empowerment, Government of India (Department of Empowerment of Persons with Disability) had constituted a committee under the Chairmanship of Joint Secretary, DEPwD with members drawn from Department of Revenue, Ministry of Heavy Industries and Ministry of Road Transport and Highways for exploring the possibility of extending the benefits of GST concession to all 21 categories of Divyangjan (PwD) for purchase of motor vehicles. This Court is informed that this Committee has since submitted its report. Recommendations of the Committee are captured in paragraph 9 of the report and the same read as follows:

'9. Recommendations of the Committee:

i) The Committee recommends that GST concession certificate for purchase of motor vehicle as available presently for persons with orthopaedic disability and their kith and kin should be extended to all categories of persons with benchmark disabilities mentioned in RPwD Act, 2016 and their kith and kin.

ii) Presently, Ministry of Heavy Industries's portal is already linked for Aadhaar authentication. DEPwD can provide access to the UDID portal to Ministry of Heavy Industries, for verification of certificate of disability. However, till the time all the manual certificates of disability are fully digitized, physical certificate of disability should continue to be considered by Ministry of Heavy Industries.

iii) Granting GST concession on the basis of medical certificate in addition to certificate of disability should be discontinued.'

6. Learned Assistant Solicitor General of India submits that the above recommendations would be accepted and given effect to. This by itself gives a quietus to the captioned writ petition.

7. Before this Court writes the operative portion of this order, it is deemed appropriate to place on record the fair stand taken by the respondents qua ***Javed Abidi*** case as also appreciation for the Assistant Solicitor General for not taking adversarial position and assisting the Court.

8. Learned counsel for writ petitioner submits that the aforementioned recommendations if translated to extension of concessions to all 21 categories of PwD that by itself would tantamount to acceding to the prayer of the writ petitioner. This Court deems it appropriate to record that this would now be the position obtaining for all PwDs across 21 categories with regard to purchase of motor vehicles.

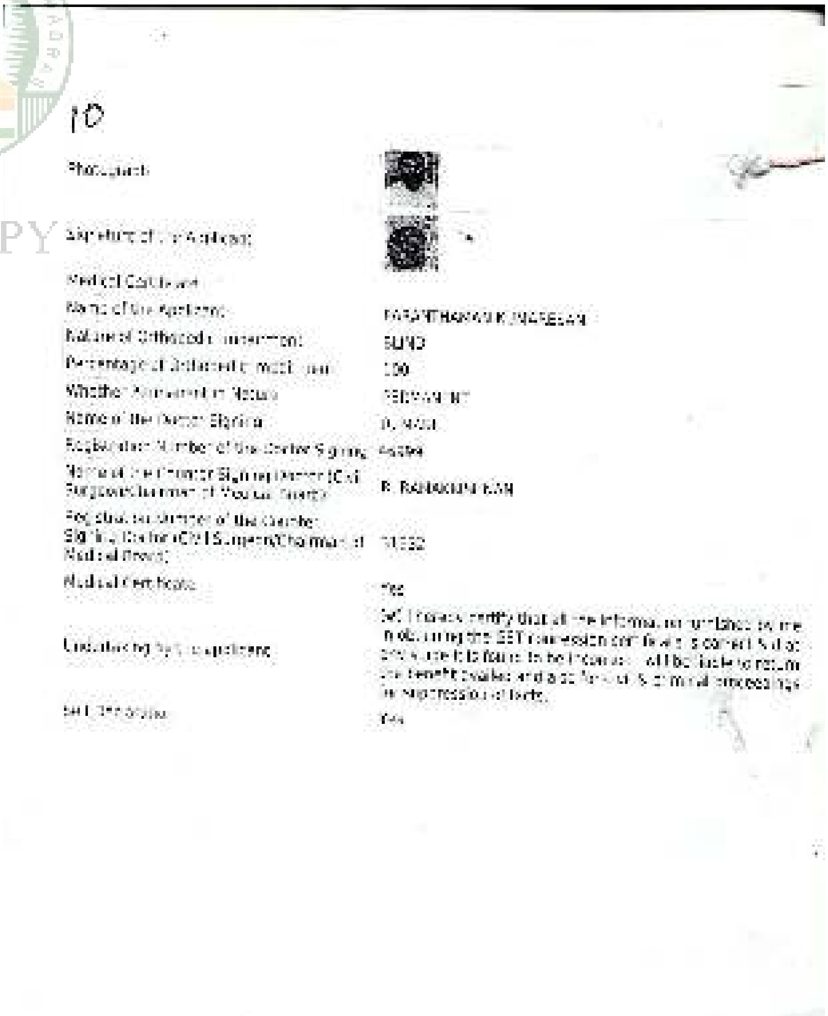
9. As regards the captioned writ petition is concerned, the following order is passed:

> a) impugned orders being 12.07.2021 proceedings vide official website in http://dhigecs.heavyindustry.gov.in/ and consequential impugned electronic mail communication dated 11.08.2021 (through respondent No.4) are set aside;
>
> b) the first respondent shall now process the writ petitioner's online application (at pages 9 and 10 of the typed set of papers), a scanned reproduction of which is as follows:

9

Certificate for availing GST Concession to Orthopedically disabled Persons on Purchase of Car

Registration No	[illegible]	
Name of the Person	PARANTHAMAN KUMARESAN	
Father's Name/Husband's Name	KUMARESAN P R	
Mobile Number	XXXXXX4293	
Email Id	paranthaman[illegible]@gmail.com	
Date of Birth	[illegible]	
Gender	Male	
Marks of Identification	A BLOCK MOLE ON THE MIDDLE FINGER	
PAN Number	XXXXXX420J	Yes
Aadhar Number	XXXXXXXX9301	Yes
UDID Number (if available)	TN2880219710025730	Yes
State	TAMIL NADU	
District	KANNIYAKUMARI	
Pin	629004	
Residential Address	1A/203, HOLY CROSS NAGAR, [illegible], NAGERCOIL, KANNIYAKUMARI DT, TAMIL NADU	
Details of Car to be Purchased		
Company/OEM Name	Toyota Kirloskar Motor Pvt Ltd	
Model	Glanza	
Variant	[illegible]	
Power Displacement/Engine Capacity (CC)	1197	
Length of Car	3995	
Details of the Dealer from where Car to be Purchased		
Name	ANAMALLAIS AGENCIES MADURAI PRIVATE LIMITED	
Email	[illegible]@anamallaistoyota.com	
Phone Number	[illegible]	
State	TAMIL NADU	
District	KANNIYAKUMARI	
Pin	[illegible]	
Address	[illegible] MAIN ROAD, [illegible], NAGERCOIL	
Details of the RTO where the Car to be Registered		
Name of Registering Authority	RTO, NAGERCOIL	
Email	[illegible]@nic.in	
Phone Number	[illegible]	
State	TAMIL NADU	
District	KANNIYAKUMARI	
Pin	[illegible]	
Address	[illegible], PANDARAPURAM, [illegible], NAGERCOIL	
Personal Documents		



10

Photograph	[redacted]
Signature of the Applicant	[redacted]
Medical Certificate	
Name of the Applicant	[illegible]
Nature of Orthopedic Impairment	BLIND
Percentage of Orthopedic Impairment	100
Whether Permanent in Nature	PERMANENT
Name of the Doctor Signing	[illegible]
Registration Number of the Doctor Signing	[illegible]
Name of the Doctor Signing Doctor (Civil Surgeon/Chairman of Medical Board)	R. [illegible]
Registration Number of the Doctor Signing Doctor (Civil Surgeon/Chairman of Medical Board)	[illegible]
Medical Certificate	Yes
Undertaking by the applicant	[illegible] hereby certify that all the information furnished by me in obtaining the EET [illegible] certificate is correct & that [illegible] it is found to be incorrect I will be liable to return the benefit availed and also for civil & criminal proceedings for suppression of facts.
[illegible]	Yes

c) the first respondent shall process the above application as expeditiously as its official business would permit but in any event conclude the process on or before 31.01.2022.

10. Main writ petition is disposed of in the aforesaid manner with the aforesaid directive. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsm

To

1.The Secretary,
Union of India,
Department of Heavy Industry,
Ministry of Heavy Industries and Public Enterprises,
Block No. 14 CGO Complex,
Lodhi Road,
New Delhi-110003.

2.The Secretary,
Union of India,
Department of Revenue,
Ministry of Finance,
North Block,
New Delhi – 110 001.

3.The Secretary,
Union of India,
Department of Empowerment of
persons with disabilities,
Ministry of Social Justice and Empowerment,
Antyodaya Bhawan,
New Delhi – 110 003.

4.The Under Secretary,
Union of India,
AEI Section,
Department of Heavy Industry,
Ministry of Heavy Industries and
Public Enterprises,
No.428, Udyog Bhawan,
New Delhi.

W.P(MD)No.20511 of 2021
22.12.2021

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