



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2021

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)Nos.26258 and 26259 of 2019

WEB COPY

1.D.Parvathi ... Petitioner in W.P.No.26258 of 2019
2.S.Subramanian ... Petitioner in W.P.No.26259 of 2019

Vs.

The Regional Transport Authority,
Collectorate Building,
Dindigul. ... Respondent in both W.Ps

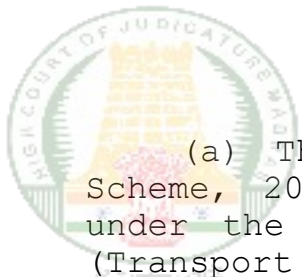
COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent vide his proceedings in R.No.053472/A2/2019, dated 31.10.2019 and quash the same as illegal and consequently direct the respondent to grant the Mini Bus permits to the petitioners on the route Kaveriammpatti to Naganampatti Cross Road and on the route Gullaveeranpatty to Ottanchathiram Bus Stand respectively, as per the Area Modified Approved Scheme in G..O.(Ms) No.1536 Home (Transport-III) dated 17.11.1999.

For Petitioners : Mr.A.C.Asaithambi
in both WPs.
For Respondent : Mr.P.Thilak Kumar
in both WPs. Govt.Advocate

COMMON ORDER

Both the Writ Petitions have been filed praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent vide his proceedings in R.No.053472/A2/2019, dated 31.10.2019 and quash the same as illegal and consequently direct the respondent to grant the Mini Bus permits to the petitioners on the route Kaveriammpatti to Naganampatti Cross Road and on the route Gullaveeranpatty to Ottanchathiram Bus Stand respectively, as per the Area Modified Approved Scheme in G..O.(Ms)No.1536 Home (Transport-III) dated 17.11.1999.

2. Though very many contentions have been raised by the petitioners, the main ground on which the learned counsel for the petitioners sought to quash the impugned orders are that:



(a) The State Government has introduced a New Comprehensive Scheme, 2011, modifying the Approved Modified Area Scheme, 1999, under the Tamil Nadu Motor Vehicles Act, in G.O.Ms.No.136, Home (Transport - III), dated 17.11.1999. Based on the New Comprehensive Scheme, 2011, the respondent has passed by the impugned orders. But, the said New Comprehensive Scheme, 2011 itself ie. G.O.Ms.No.136 itself, was set aside by this Court, vide order dated 18.04.2018 in W.P.(MD).No.2893 of 2011, before passing the impugned orders and therefore, the impugned orders passed by the respondent, rejecting the claim of the petitioners under the New Comprehensive Scheme, 2011 cannot be sustained and that, as the petitioners' applications for permit have been pending before the initiation of the New Comprehensive Scheme, 2011, this Court may direct the respondent to consider the applications of the petitioners under the old scheme.

(b) Though the State Transport Appellate Tribunal directed the respondent to pass orders after providing an opportunity of personal hearing to the petitioners, the respondent did not provide such opportunity before passing the impugned orders.

3. According to the respondent, the applications of the petitioners did not satisfy the conditions laid down either in the old scheme or in the New Comprehensive Scheme, 2011. The State Transport Appellate Tribunal has directed the respondent to consider the applications of the petitioners afresh in accordance with the New Comprehensive Scheme, 2011. As per the direction of the Tribunal, the applications of the petitioners were considered and rejected, as it is not feasible. Thus, they prayed to dismiss the writ petitions.

4. Heard the learned counsel appearing for both sides and perused the records carefully.

5. It is seen from the record that the petitioners have been fighting for a long time for getting permission for Mini Bus operation. Though the respondent has considered the applications of the petitioners under the New Scheme, 2011, as per the direction of the Tribunal and rejected the same, the fact remains that the New Scheme, 2011 itself was not in existence while passing the impugned orders, in view of the decision of a learned Single Judge of this Court in W.P.(MD).No.2893 of 2011, dated 18.04.2018. Therefore, the impugned order needs to be interfered with on this ground alone. Further, the respondent ought to have provided an opportunity of hearing to the petitioners before passing the impugned orders, as directed by the appellate authority, which has also not been complied with.



6. In view of the above, the impugned orders passed by the respondent is set aside and the matters are remanded to the file of the respondent. The respondent is directed to consider the applications of the petitioners, as per the old scheme ie., Modified Area Approved Scheme in G.O.(Ms).No.1548, Home (Transport -III) dated 17.11.1999 and after giving an opportunity of personal hearing, pass appropriate order on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7. The Writ Petitions stand disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS-)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MPK

Note:(i) 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,
Collectorate Building,
Dindigul.

W.P (MD) Nos.26258 and 26259 of 2019

14.06.2021

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