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W.P.No.5312 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

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THE HONOURABLE Mr.JUSTICE S.SOUNTHAR

W.P.No.5312 of 2010
and M.P.No.1 of 2010

K.Ramesh

(Cause title amended vide order dated 25.01.2019
made in W.M.P.No.2161 of 2018
in W.P.No.5312 of 2010)

... Petitioner

Vs.

1. The State Transport Appellate Tribunal,
High Court Campus,
Chennai.

2. The Regional Transport Authority,
Tiruchirappalli.

3. M.P.Sugumaran

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, pleaded to issue a writ of Certiorari, calling for the records of the first respondent in M.V.R.P.No.16 of 2006 dated 28.10.2009 and to quash the same.

For Petitioner : M/s.Radha Gopalan
for Mr.K.Hariharan



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For R1 : Tribunal
For R2 : M/s.P.Sanjai Gandhi
Government Advocate
For R3 : Mr.R.Srinivasalu

ORDER

The Writ Petition has been filed challenging the order passed by the first respondent in M.V.R.P.No.16 of 2006 dated 28.10.2009 setting aside the order passed by the Regional Transport Authority, Tiruchirappalli dated 29.09.2004.

2. According to the petitioner, the petitioner is a stage carriage operator operating a stage carriage plying on the route Tiruchirappalli to Pallapatty. Based on the representation of public, the second respondent/ Regional Transport Authority by exercising suo motu power under Section 72(2)(xxii) of the Motor Vehicles Act, 1988, ordered for further extension of route, so as to touch Tharagampatti from Mylampatti. The second respondent also imposed a condition that the petitioner shall maintain existing timings and should not collect extra fare.

3. Aggrieved by the order passed by the second respondent, the



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third respondent had filed an appeal before the first respondent mainly on the ground that the order passed by the second respondent was not signed by the Regional Transport Authority and it was only signed by the Secretary to the Regional Transport Authority. It was the main contention of the third respondent before the first respondent/Tribunal that the Secretary to Regional Transport Authority has no power to exercise suo motu power under Section 72(2)(xxii) of the Motor Vehicles Act, 1988. Thus, the first respondent/Tribunal had set aside the order passed by the Regional Transport Authority stating that the Secretary of Regional Transport Authority has no power to exercise suo motu power available to the second respondent. Aggrieved by the said order, the petitioner has come up with this writ petition.

4. The learned counsel for the petitioner produced the certified copy of the order passed by the second respondent/ Regional Transport Authority dated 29.09.2004.



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5. The second respondent has filed a Counter stating that on representation from the general public seeking extension of the service from Mylampatti to Tharagampatti, the second respondent exercising his power to execute suo motu power under Section 72(2)(xxii) of the Motor Vehicles Act, 1988, passed an order. The second respondent had imposed a condition that the petitioner has to maintain existing timing and he is not entitled to get extra fare.

6. Learned counsel for the third respondent submitted that the Secretary to Regional Transport Authority has not been delegated with any power to sign the orders passed by the Regional Transport Authority. Therefore, the first respondent/Tribunal is correct in setting aside the order passed by the second respondent.

7. Perusal of the certified copy produced by the second respondent, make it clear that the said proceedings was signed by the Regional Transport Authority himself under his seal. Therefore, the reason given by the Tribunal, that the order passed by the second respondent was only signed by the



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Secretary to second respondent is not correct.

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8. In view of the fact, that the suo motu proceedings of the second respondent dated 20.09.2004 was signed by himself under his seal, the order passed by the first respondent is vitiated by an error apparent on the face of record. Therefore, the order passed by the first respondent is liable to set aside.

9. Therefore, the Writ Petition is allowed. The order passed by the first respondent is set aside, by restoring the order passed by the second respondent. Consequently, the connected miscellaneous petition is closed.

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Index :Yes/No
Internet:Yes/No
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S. SOUNTHAR, J.

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To

1. The State Transport Appellate Tribunal,
High Court Campus,
Chennai.
2. The Regional Transport Authority,
Tiruchirappalli.
3. The Public Prosecutor,
High Court of Madras.

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and
M.P.No.1 of 2010**

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