



W.P. No. 680 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 680 of 2018

and

W.M.P. No. 852 of 2018

Kathir College of Engineering
Rep. by its Principal
Tmt. P.Banumathi
“Wisdom Tree”, Neelambur
Coimbatore – 641 062.

... Petitioner

-VS-

1. Union of India
Rep. by its Secretary
Ministry of Road Transports and Highways
New Delhi.
 2. National Highways Authority of India
Rep. by its Chairman
G5 & 6 Sector – 10
Dwaraka, New Delhi – 110075.
 3. The Project Director
National Highway Authority of India
11/1, Kongu Nagar-East
Behind Appasamy Apartments
Ramanathapuram
Coimbatore – 641045.
 4. The Project Director
M/s. IVRCL – Kanniyur Toll Gate
Kanniyur, Coimbatore.
- Respondents

...



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Declaration declaring that the benefit of paragraph 5(b)(iii) of the Notification of the First Respondent in S.O. 882 (E) dated 30.03.2009 is available to all the buses in respect of the Petitioner institution as defined in Section 2(11) of the Motor Vehicles Act and not only for 'school buses'.

For Petitioner : Mr. M.Naraayanaswamy

For Respondents : Mr. T.L.Thirumalaisamy (For R6)

Ms. Sophiya Padmanabhan
For M/s. P. Wilson Associates (For R2 & R3)

Mr. P.J.Sriganesh (For R4)

ORDER

Heard Mr. M.Naraayanaswamy, Learned Counsel for the Petitioner, Mr. T.L.Thirumalaisamy, Learned Counsel for the First Respondent, Ms. Sophiya Padmanabhan, Learned Counsel for the Second and Third Respondents and Mr. P.J.Sriganesh, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Writ Petition has been filed for declaring that the benefit of paragraph

5(b)(iii) of the Notification in S.O. 882 (E) dated 30.03.2009 issued by the First Respondent is available to all the buses in respect of the educational institution of the Petitioner as defined in Section 2(11) of the Motor Vehicles Act, 1988.

3. The Division Bench of this Court in ***Sri Angalamman College of Engineering and Technology -vs- Deputy Secretary to the Government of India, Ministry of Road Transport and Highways, New Delhi*** (Order dated 22.09.2014 in W.A. (MD) No. 968 of 2014) has rejected the claim of the educational institutions similarly placed to the Petitioner, as in this case.

4. This Court at the time of admission on 12.01.2018 had passed the following self-explanatory order:-

“2. The Learned Counsel for the Petitioner submitted that similar matters are entertained by this Court, by granting interim direction. He invited this Court's attention to one such order in W.P. No. 30536 of 2015 dated 29.09.2015. He has also submitted that similar cases are still pending.

3. Consider the above stated facts and circumstances, similar interim order is passed in this case also.



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4. *Following the order passed in M.P. (MD) No. 2 of 2015 in W.P. (MD) No. 11351 of 2015 dated 29.07.2015, there shall be an interim direction directing the Third Respondent to collect Rs. 1,000/- (Rupees One Thousand Only) per vehicle per month from the Petitioner's vehicle which is exclusively used to taking students for schools and colleges."*

It has been brought to notice that even before the filing of this Writ Petition, the Court by order dated 24.03.2016 in W.P. (MD) No. 11351 of 2015 relied for granting interim order, has disposed that Writ Petition. It is represented that on account of that interim direction, the Third Respondent has not been able to collect the differential amount due from the Petitioner till date. In such circumstances, it is made clear that following the dictum laid down by the Hon'ble Supreme Court of India in ***South Eastern Coalfields Ltd. -vs- State of Madhya Pradesh*** [(2003) 8 SCC 648], the Respondents are not precluded from working out their rights for recovering the differential amount due from the Petitioner in the manner recognized by law.

In fine, the Writ Petition is dismissed with the aforesaid clarification.

Consequently, the connected Miscellaneous Petition is closed. No costs.



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Index: Yes/No

Note: Issue order copy by 15.11.2022.

To

1. The Secretary
Ministry of Road Transports and Highways
New Delhi.
2. The Chairman
National Highways Authority of India
G5 & 6 Sector – 10
Dwaraka, New Delhi – 110075.
3. The Project Director
National Highway Authority of India
11/1, Kongu Nagar-East
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P.D. AUDIKESAVALU, J.

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