

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.Nos.4133 & 4134 of 2013
and
M.P.Nos.1 & 2 and 1 & 2 of 2013

W.P.No.4133 of 2013:-

K.S.R.Educational and Charitable Trust,
Represented by its Authorised Signatory,
K.S.R.Kalvi Nagar,
Kuchipalayam Post,
Tiruchengodu - 637 215.

... Petitioner

Vs.

1.National Highways Authority of India,
Represented by its Chairman,
G 5 & 6, Sector -10,
Dwarka, New Delhi - 110 075.

2.The Project Director,
National Highways Authority of India,
212-3/D3-1, Sri Nagar Colony,
Narasothipatti,
Salem - 636 004.

3.M.V.R.Infrastructure and Tollways Pvt Ltd,
M.V.R.Toll Plaza,
Kottagoundampatty,
Omalar Taluk, Salem District - 636 011.

4.Kumarapalayam Tollways Limited,
Kambuliyampatti,
Vijayamangalam Post,
Perundurai Taluk,
Erode District - 638 056.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondents relating to the order of the 3rd respondent in Letter No.MVR/BOT/TN02/379 dated 18.10.2012

and of the 4th respondent in Letter No.KTL/NHAI/2012-001 dated 25.10.2012 and quash the same and direct the respondents herein to collect entry fees at toll plaza for the educational institution vehicles of the petitioner herein namely TN-34/H-2397 and TN-34/L-0262 in so far as petitioner concerned on par with the entry fees for school buses carrying school students.

For Petitioner : Mr.Kandhan Duraisami

For Respondents: Mr.P.J.Rishikanth
for R4
M/s.S.R.Sumathy
for R1 & R2
Mr.J.Kannan
for R3

W.P.No.4134 of 2013:-

K.S.R.Educational and Charitable Trust,
Represented by its Authorised Signatory,
K.S.R.Kalvi Nagar,
Kuchipalayam Post,
Tiruchengodu - 637 215.

... Petitioner

Vs.

- 1.The Government of India,
Represented by its Secretary,
Department of Road Transport and Highways,
Ministry of Shipping, Road Transport and Highways,
New Delhi.
- 2.National Highways Authority of India,
Represented by its Chairman,
G 5 & 6, Sector -10,
Dwarka, New Delhi - 110 075.
- 3.The Project Director,
National Highways Authority of India,
212-3/D3-1, Sri Nagar Colony,
Narasothipatti,
Salem - 636 004.
- 4.M.V.R.Infrastructure and Tollways Pvt Ltd,
M.V.R.Toll Plaza,
Kottagoundampatty,
Omalur Taluk, Salem District - 636 011.

5.Kumarapalayam Tollways Limited,
Kambuliyampatti,
Vijayamangalam Post,
Perundurai Taluk,
Erode District - 638 056.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Declaration, declaring that the benefit of Paragraph 7(b)(ii) of the Notification of the 1st respondent in S.O.1178(E) dated 08.05.2009 published in the Extraordinary Issue of part II, Section 3, Sub-section (ii) of the Gazette of India No.720 dated 08.05.2009 is available to all the "educational institution buses" as defined in Section 2(11) of the Motor Vehicles Act and not only for 'School buses'.

For Petitioner : Mr.Kandhan Duraisami

For Respondents: Mr.P.J.Rishikanth
for R5
Ms.S.R.Sumathi
for R1 to R3
Mr.J.Kannan
for R4

COMMON ORDER

By this common order, both these writ petitions are taken up for final disposal.

2.The learned counsel for the petitioner fairly submits that the issue is squarely covered against the petitioner by the decision of this Court in the batch of Writ Appeals dated 25.04.2014 in W.A.Nos.560, 561, 563 and 564 of 2014 in the case of Mahendra College of Engineering, Attur main Road, Minnampalli, Salem - 636 106 and another Vs. The Government of India, Rep by its Secretary Department of Road Transport and Highways Ministry of Shipping Road Transport & Highways, New Delhi and others. The relevant portion of the order reads as under:

"As the issue involved in all these appeals in one and the same, and in view of the fact that the writ petitions have been disposed of by a common order, a common judgment is passed in these appeals.

2. A challenge was made by the appellant before the learned Single Judge against the Notification dated 13.01.2012, passed by the first respondent by which the exemption by way of granting discounted rates was only extended to School buses carrying school children and not to children who are studying in the

Colleges or other Educational Institutions.

3.

The learned Single Judge after making reliance upon the earlier order passed, covering the very same Issue, was pleased to dismiss the writ petitions. Challenging the same, the present writ appeals have been filed.

4.

Mr.K.Duraisami, learned Senior Counsel appearing for the appellants submitted that as both the Colleges and Schools are imparting educational, the exclusion of Colleges is bad in law. A College will have to be construed as a School and by doing so, the respondent will have to be directed to extend the benefits which has been given to the Schools. Similar issue is pending consideration before the Division Bench. Therefore, the writ appeals will have to be entertained.

5. We

do not find any reason to entertain the writ appeals. The notification is very clear. When there is no ambiguity in the words/terms used by an authority, then the Court of law shall not venture to interpret the same in a different way. Admittedly, a School is different from a College. A School Student is also different from a College Student. The notification is only a concession given to the School Students. The appellant cannot seek the same as a matter of right. The power of judicial review in such matters is very limited. The learned Single Judge, has taken note of the law governing the issues raised, while passing the impugned order. We are, also of the view that the mere pendency of the writ appeal cannot be a ground to entertain a subsequent one.

6. In

the result, we do not find any merit. The appeal is dismissed. No costs. The connected miscellaneous petitions are also dismissed."

3.In view of the decision made in the above appeals, these writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

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To

- 1.The Chairman,
National Highways Authority of India,
G 5 & 6, Sector -10,
Dwarka, New Delhi - 110 075.
- 2.The Project Director,
National Highways Authority of India,
212-3/D3-1, Sri Nagar Colony,
Narasothipatti,
Salem - 636 004.
- 3.The Secretary,
Government of India,
Department of Road Transport and Highways,
Ministry of Shipping, Road Transport and Highways,
New Delhi.

+1cc to Mr.Muthumani Doraisami, Advocate SR.No.36640

+2ccs to Mr.J.Kannan, Advocate SR.No.37500, 37501

+1cc to Government Pleader SR.No.37451

W.P.Nos.4133 & 4134 of 2013
and
M.P.Nos.1 & 2 and 1 & 2 of 2013

AK II (CO)
GMY(13/07/2022)