



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 28.01.2022

CORAM

**THE HON'BLE MR. JUSTICE M.SUNDAR**

**W.P(MD)No.867 of 2022**

S.Manimegalai

... Petitioner

Vs.

1.The State Transport Appellate Tribunal,  
Chennai.

2.The Regional Transport Authority,  
Trichy West,  
Trichy.

3.The Secretary / The Regional Transport Officer,  
Trichy.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 1<sup>st</sup> respondent dated 17.11.2021 made in M.V.Appeal No.02/2021 confirming the order of the 2<sup>nd</sup> respondent dated 22.12.2020 in R.No.13542/A2/2019 and quash the same and consequently direct the respondents 1 and 2 to consider the application of the petitioner afresh for grant of Mini Bus Permit for the route Manapparai to TNPL Outer via Court, Kalingapatti, Udayapatti, Thanimanickanpatti, K.Parapatti.

For Petitioner : Mr.J.Anandkumar

For Respondents : Mr.M.Lingadurai,  
Special Government Pleader

**O R D E R**

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 21.01.2022 which reads as follows:

*In the captioned writ petition an order dated 17.11.2021 made in M.V. Appeal No.02/2021 by the first respondent [confirming order dated 22.12.2020 bearing reference R.No.13542/A2/2019 made by the second respondent] has been assailed.*

*2.Mr.J.Anandkumar, learned Counsel for writ petitioner submits that subject matter of writ*



petition pertains to grant of mini bus permit in a specified route. Be that as it may, a perusal of impugned order brings to light that the writ petitioner's spouse has filed an affidavit before the first respondent restricting [curtailing] the route for which permit is sought enclosing a route map. This is captured in paragraph No.28 [Page 102 of the typed set of papers] qua the impugned order but this route map has not been placed before this Court as part of the case file. This route map appears to be of significance.

3.Faced with the above situation learned Counsel for writ petitioner sought time to bring on record the aforementioned route map as filed before the first respondent Tribunal. Ideally it should have been filed now, however considering the facts and circumstances of the case on hand this request is acceded to.

4.List in the admission board ie., motion list one week hence. List on 28.01.2022.

2. Pursuant to the aforementioned proceedings, the writ petitioner has filed additional typed set of papers dated 27.01.2021 containing the route map.

3. Mr.J.Anandkumar, learned counsel for writ petitioner and Mr.M.Lingadurai, learned Special Government Pleader, who has accepted notice on behalf of all the three respondents are before this Court, owing to the short point involved main writ petition is taken up with the consent of both sides.

4. Learned counsel for writ petitioner submits that Section 80 of 'Motor Vehicles Act, 1988 (Act 59 of 1988)' {hereinafter 'MV Act' for the sake of convenience and clarity} is of relevance. Learned counsel submits that Section 80 of MV Act talks about grant of permission. According to learned counsel for petitioner grant of permit is a rule and rejection is an exception. Learned counsel also asserted that a reading of Section 80, more particularly, sub-section (3) thereof makes it clear that curtailment is permitted.

5. Learned State Counsel on instructions submitted that the number of buses plying in the route as of today may not warrant a curtailment and this along with several other factors are taken into account by original authority before deciding on curtailment.

6. By way of rejoinder, learned counsel for writ petitioner disputed the stand of the State Government that the number of buses plying is sufficient.



7. To be noted, notwithstanding very many averments in the writ affidavit and notwithstanding several grounds raised in the writ affidavit captioned matter was argued on the basis of aforementioned submissions in the hearing itself (as captured). The argument of learned counsel for writ petitioner that grant of permit is a rule and rejection is an exception may really not be necessary to be gone into in the case on hand owing to the order of the first respondent Tribunal i.e., State Transport Appellate Tribunal (STAT) which has made the impugned order in a statutory appeal. The most relevant paragraph is paragraph 28 and the same reads as follows:

*'28. The appeal is filed against the order rejecting the application mainly on the ground of served sector exceeds the norms. Now, during the course of the Appeal on 05.11.2021, One Thiru C.Shanmugasundaram, husband of the appellant herein filed an affidavit that, since the route length applied for exceeds 4 kms norms on served sector, willing to curtail the served sector from TNPL Outer to K.Periyapatti and Manapparai Bus stand to Mariamman Koil enclosing the route map. But, the same is not entertainable because, the said affidavit is only an after thought after passing of the impugned order, which is the subject matter of the appeal that too, it is not filed by the appellant herself. Hence, the Point No(ii) is also answered against the appellant and answered accordingly.'*

The aforementioned paragraph 28 answers point No.(ii). Therefore, it is necessary to mention that Point No.(ii) is whether the order of the respondent is valid in law. This is captured in paragraph 19 (ii) of the impugned order which reads as follows:

*'19. From the above rival contentions, the following points arise for determination.*

*i).....*

*ii) Whether the order of the Respondent is valid in law?'*

8. The second argument that curtailment is permitted is a given but that does not by itself mean that the curtailment should straight away lead to grant of permit. Be that as it may, what is of relevance is a careful perusal of sub-section (3) of Section 80 of MV Act makes it clear that variation, extension or curtailment of the route or routes shall be treated as an application for grant of a new permit. To be noted, Section 80(3) of MV Act reads as follows:

*'80. Procedure in applying for and granting permits. -*

*(1).*

<https://hcservices.ecourts.gov.in/hcservices/> . . . .



(2) .....

(3) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area or by altering the route or routes or area covered by it, or in the case of a stage carriage permit by increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit shall be treated as an application for the grant of a new permit:

**[Underlining made by this Court for highlighting, supplying emphasis and for ease of reference]**

9. Therefore, the writ petitioner if at all and if that be so should only go before the original authority viz., the Regional Transport Authority. In the case on hand, this curtailment plea has been taken for the first time only in a statutory appeal before the STAT which has culminated in the impugned order in the aforesaid manner.

10. Therefore, the argument on number of buses plying is left open as that is a disputation turning on facts and this is more so as the captioned matter is a writ petition.

11. The sequitur is, this Court finds that there is no ground to interfere with the impugned order of the first respondent. However, it is open to the writ petitioner to approach the original authority i.e., Regional Transport Authority to the curtailment plea if so advised and if that be so. If writ petitioner chooses to take this 'route' i.e., legal route, the original authority shall consider the same on its own merits and in accordance with law.

12. Writ Petition is dismissed reserving the rights of the writ petitioner to the limited extent indicated above. There shall be no order as to costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsm

To

1.The State Transport Appellate Tribunal,

Chennai

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Regional Transport Authority,  
Trichy West,  
Trichy.

3.The Secretary / The Regional Transport Officer,  
Trichy.

+1 CC to M/s.J.ANANDKUMAR, Advocate ( SR-2826[F] dated 28/01/2022 )

+1 CC to M/s.SPL.GP ( SR-3093[F] dated 31/01/2022 )

**W.P(MD) No.867 of 2022**

**28.01.2022**

RK(11/02/2022) 5P 6C