



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.[MD]No.863 of 2022

and

W.M.P.[MD]Nos.694 & 751 of 2022

M.Jakkammal

... Petitioner

Vs.

1.The Regional Transport Authority,
O/o. Regional Transport Authority,
Madurai.

2.The Regional Transport Officer,
Madurai South,
Madurai.

3.The Regional Transport Officer,
Madurai North,
Madurai.

4.The Motor Vehicle Inspector Grade - I,
Regional Office,
Vadipatti,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent vide his proceedings in Na.Ka.No.45273/R3/2021, dated 05.01.2022 and quash the same as illegal and consequently directing the respondents to permit the petitioner's Stage Carriage bearing registration No.TN 59 BW 9867 on the diverted route while plying from Periyakulam to Madurai, (Via) Nagari Pirivu, Samayanallur instead of Sholavandhan Railway Gate Crossing within the time frame as fixed by this Court.

For Petitioner : Mr.A.C.Asaitambi

For Respondents : Mr.A.Baskaran

Additional Government Pleader



O R D E R

In the captioned matter Mr.A.C.Asaithambi, learned Counsel on record for the writ petitioner and Mr.A.Baskaran, learned Additional Government Pleader who accepts notice on behalf of all the four respondents are before this Court.

2.This is the second round of litigation.

3.Writ petitioner came to this Court earlier vide W.P.[MD] No.23051 of 2021 and W.M.P.[MD]No.19524 of 2021 which was disposed of by this Court [after hearing both sides] vide an order dated 03.01.2022 which is as follows:

'Mr.A.C.Asaithambi, learned counsel for writ petitioner is before this virtual Court. Learned counsel submits that writ petitioner is a stage carriage operator in Dindigul District operating a stage carriage bearing Registration No.TN-59-BW-9867 and plying in the route Periyakulam to Madurai.

2.Writ petitioner was issued two Check Reports, first is dated 24.11.2021 and the second is dated 18.12.2021 when the writ petitioner's stage carriage was intercepted while plying.

3.There are several alleged violations in the Vehicle Inspection Records (Check Reports) the same turn on facts, the writ petitioner will have to face the same on merits.

4.Be that as it may, regarding the aforementioned second Check Report dated 18.12.2021, serial No.4 is of relevance and the same reads as follows:

'4.இவ்வாகனம் பெரியகுளம் மதுரை வழி சோழவந்தான் வழியாக செல்ல அனுமதி சீட்டில் ஆனால் மாற்றி தணிச்சியம் நகரி, சமயநல்லூர் வழியாக அனுமதிக்கு புறம்பாக மாற்று பாதையில் வரைநர் (Route Realation) இணைப்பு (Permit Route)'

5.With regard to the above serial No.4 [vide second Vehicle Inspection Record / Check Report (which alone survives in captioned writ petition)], learned counsel for writ petitioner abridges his prayer and submits that it will suffice if there is a direction to first respondent to dispose of writ petitioner's representation dated 29.11.2021, which reads as follows:



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அனுப்புநர்:

M.ஜக்கம்மாள்

கூபெ, மாரியப்பன்

H1-H2-369, R.M.காலனி,

1st கிராஸ் தெரு, திண்டுக்கல் - 624001.

பெறுநர்:

உயர்திரு வட்டார போக்குவரத்து அலுவலர் அவர்கள்

மதுரை தெற்கு, மதுரை.

மதிப்பிற்குரிய ஐயா,

நான் மேலே கண்ட முகவரியில் வசித்து வருகிறேன் எனக்கு சொந்தமான பதிவு எண்: TN 59 HW 9867 என்ற பேருந்து அரசின் முறையான அனுமதியுடன் பெரியகுளம் - மதுரை வழித்தடத்தில் இயங்கி வருகிறது. பேருந்து இரண்டு தனி நடைகள் மதுரையிலிருந்து சோழவந்தான், நிலக்கோட்டை, வத்தலக்குண்டு வழியாக பெரியகுளம் சென்றடைகிறது. அவ்வாறு செல்லும் போது போக்குவரத்து நடைகளோ இடைக்கிடையாக ஏதும் இல்லை ஆனால் பெரியகுளத்தில் இருந்து மதுரை வரும் போது மேற்படி பேருந்து வத்தலக்குண்டு, நிலக்கோட்டை வாடிப்பட்டி, ஆண்டிப்பட்டி டிரவெல்லேர்ஸ் பங்களா, சோழவந்தான் நகர் வழியாக மதுரை வருவதற்கு சோழவந்தான் நகரில் இரயில்வே மேம்பாலம் வேலைகள் நடப்பதால், நகருக்குள் செல்ல முடியவில்லை. இதனால் எங்களால் பேருந்தை சோழவந்தான் வழியாக மதுரைக்கு இயக்க முடியவில்லை. இதனால் எங்களுக்கு மிகுந்த சிரமம் ஏற்பட்டுள்ளது. ஆகையால் நீங்கள் தயவுசெய்து எங்கள் பேருந்தினை பெரியகுளத்தில் இருந்து மதுரை திரும்பி வரும் பொழுது சோழவந்தான் நகருக்குள் செல்லாமல் வாடிப்பட்டி, ஆண்டிப்பட்டி டிரவெல்லேர்ஸ் பங்களாவிலிருந்து சமயநல்லூர் வழியாக அல்லது தாங்கள் உத்தரவிடும் வேறு வழியாகவோ மதுரை வருவதற்கு அனுமதியளித்து உத்தரவு வழங்கிடுமாறு பணிவுடன் கேட்டுக்கொள்கிறேன்.

நன்றி,

இடம்: திண்டுக்கல்

தேதி: 11/11/2021

இப்படிக்கு,

சக் சக்மா

6.Learned counsel for writ petitioner submits that a bridge is under construction and therefore, writ petitioner has a right to make such a request inter alia under Section 66(3) (m) of 'the Motor Vehicles Act, 1988' (hereinafter 'MV Act' for the sake of convenience and clarity). Learned counsel for writ petitioner advertizing to a communication dated 19.11.2021 from the Highways Department submits that the bridge is still under construction.

7.Mr.C.Satheesh, learned Government Advocate accepts notice on behalf of all the four respondents.



8. In the light of the abridged prayer, I refrain myself from expressing any opinion or view on the merits of the matter and I deem it appropriate to dispose of the captioned writ petition with a simple directive to the first respondent to dispose of writ petitioner's aforementioned representation dated 29.11.2021 as expeditiously as his business would permit and in any event within one week from today i.e., on or before 10.01.2022.

9. The proceedings / orders disposing of writ petitioner's aforementioned representation shall be communicated to the writ petitioner under due acknowledgement within three working days from the date of disposal. It is made clear that the disposal of representation will impact only serial No.4 in the second Check Report / Vehicle Inspection Record dated 18.12.2021. In other words, the other serial numbers in the second Check Report / Vehicle Inspection Record and all the serial numbers in the first Check Report / Vehicle Inspection Record dated 24.11.2021 will be dealt with on their own merits and in accordance with law.

10. Captioned main writ petition is disposed of with aforementioned simple directive. Consequently, captioned WMP is also disposed of as closed. There shall be no order as to costs.'

4. The aforesaid order speaks for itself.

5. Notwithstanding the aforementioned order of this Court, instead of the first respondent [Regional Transport Authority, Madurai] the second respondent [Regional Transport Officer, Madurai] has disposed of 'writ petitioner's representation dated 29.11.2021' [hereinafter 'said representation' for the sake of convenience and clarity]. To be noted, in paragraph No.8 of the aforementioned earlier order dated 03.01.2022 there is a specific directive to the effect that first respondent should dispose of writ petitioner's said representation.

6. Learned State Counsel submits that the confusion appears to have arisen because said representation is addressed to second respondent.

7. The aforementioned order was made after carefully considering the facts, circumstances of the case and a specific directive was given to the first respondent to dispose of said representation notwithstanding the fact that said representation is addressed to the second respondent. Therefore it is only appropriate that the



first respondent disposes of writ petitioner's said representation.

8.To be noted, said representation has already been scanned and reproduced in paragraph No.4 of the earlier order which in turn has been scanned and reproduced in its entirety supra.

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9.Be that as it may, second respondent has disposed of said representation vide 'proceedings dated 05.01.2022 bearing reference ந.க.எண்.45273/R3/2021' [hereinafter 'impugned order' for the sake of convenience and clarity].

10.This Court is clear that when there is a directive to the first respondent to dispose of said representation it should be disposed of only by first respondent, this is more so as such a directive was given after noticing that the writ petitioner's said representation is addressed to second respondent. Further to be noted, said representation has been scanned and reproduced in the earlier order.

11.In the light of the narrative thus far, following order is made:

a)The impugned order ie., order dated 05.01.2022 bearing reference ந.க.எண்.45273/R3/2021 made by second respondent is set aside;

b)The impugned order is set aside solely on the ground that the earlier directive was to the first respondent to dispose of writ petitioner's said representation and not to the second respondent. In other words, in setting aside the impugned order no view or opinion has been expressed (in this order) on the merits of the matter;

c)The first respondent shall now take up writ petitioner's said representation ie., representation dated 29.11.2021, scanned and reproduced supra as part of the earlier order dated 03.01.2022 in W.P.[MD]No.23051 of 2021 [which in turn has been scanned and reproduced in its entirety supra] consider the same on its own merits, in accordance with law and dispose of the same as expeditiously as his business would permit and in any event within a fortnight from today ie., on or before **04.02.2022;**

d)The order / proceedings of the first respondent disposing of writ petitioner's said representation shall be communicated by the first respondent to the writ petitioner under due acknowledgment within five [5] working days from the date of disposal of the



representation;

e)Learned State Counsel ie., learned Additional Government Pleader shall communicate forthwith this order of the first respondent directly and also inform the second respondent to forward forthwith the said representation and the files concerned to the first respondent for necessary action;

12.Captioned writ petition is disposed of in the aforesaid manner. Consequently, captioned Writ Miscellaneous Petitions are disposed of as closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

NOTE: *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

- 1.The Regional Transport Authority,
O/o. Regional Transport Authority,
Madurai.
- 2.The Regional Transport Officer,
Madurai South,
Madurai.
- 3.The Regional Transport Officer,
Madurai North,
Madurai.
- 4.The Motor Vehicle Inspector Grade - I,
Regional Office,
Vadipatti, Madurai District.

+1 CC to M/s.SPL.GP (SR-2415[F] dated 25/01/2022)

W.P. [MD]No.863 of 2022
21.01.2022