



W.P(MD).Nos.8910 and 9027 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).Nos.8910 and 9027 of 2022

W.P(MD)No.8910 of 2022

Kombiah Devar

... Petitioner

Vs.

The Secretary,
The Regional Transport Authority,
Cum District Collector,
Tirunelveli.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed in M.V.Appeal No.46/2021, dated 16.12.2021 by the State Appellate Tribunal Chennai and set aside the same and subsequently direct the respondent to renew the permit of petitioner's mini bus bearing Registration No.TN-45-N-0126.

For Petitioner : Mr.R.Murugapooapathy
For Respondent : Mr.P.Subbaraj
Special Government Pleader

W.P(MD)No.9027 of 2022

Kombiah Devar

... Petitioner

Vs.



W.P(MD).Nos.8910 and 9027 of 2022

The Secretary,
The Regional Transport Authority,
Cum District Collector,
Tirunelveli.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed in M.V.Appeal No.47/2021, dated 16.12.2021 by the State Appellate Tribunal Chennai and set aside the same and subsequently direct the respondent to renew the permit of petitioner's mini bus bearing Registration No.TN-59-N-0299.

For Petitioner : Mr.R.Murugapooapathy
For Respondent : Mr.P.Subbaraj
Special Government Pleader

COMMON ORDER

The petitioner is the owner of two mini buses bearing Registration Nos. TN-45-N-0126 and TN-59-N-0299. The Regional Transport Authority, by order, dated 31.01.2017 cancelled the permit for two mini buses under Section 86 (1) (C) of the Motor Vehicle Act, against which, the petitioner preferred an appeal before the State Transport Appellate Tribunal in M.V.Nos.46 and 47 of 2021. The State Transport Appellate Tribunal, by order, dated 16.12.2021 dismissed both the appeals confirming the order passed by the Regional Transport Authority in Proceedings Nos.74015/A2/2016 and 67282/A2/2016, dated 31.01.2017.



2. The contention of the petitioner is that the petitioner involved in Transport business for the past several years. The petitioner has two mini buses bearing Registration Nos.TN-45-N-0126 and TN-59-N-0299 and obtained permit to run the aforesaid mini buses from Kalakkad(Meera Theathre) to Melasadayamaankulam in Thirunelveli District. The bus permit numbers are 42/MB/2005 and 14/MB/2005. The permit for mini buses bearing Registration Nos.TN-45-N-0126 and TN-59-N-0299 was lastly renewed from 14.12.2016 to 01.02.2021 and 14.12.2015 to 13.12.2020 respectively. The Regional Transport Officer Sent memo to the petitioner on 26.12.2016 calling for explanation within a week based on the representation made on behalf of the villagers. The Regional Transport Authority on the representation directed the petitioner to appear before him and give his explanation, which was not considered. Later, the Regional Transport Authority in his proceedings, dated 31.01.2017 cancelled the permit under Section 86 (1) (C) of the Motor Vehicle Act. He further submitted that the petitioner was ready to pay the compounding fee under Section 86 (5) of the Motor Vehicle Act read with Rule 206 of the Tamil Nadu Motor Vehicle Rules. This was not considered and permit cancelled arbitrarily against which the petitioner preferred an appeal before the State Transport Appellate Tribunal. The Registration Certificate and all the records still stands in the name of the petitioner. Further, the public complaint is that in violation of



Rules, extra charges collected and routes violated cannot be considered. The representation is bald enough without particulars, the violation of route, its timings and mini bus number not provided. The complaint does not pertain to the petitioner or no allegations made against the petitioner. The general public seek facility of mini bus service and nothing more.

3. The State Transport Appellate in his order states to one A.Essac, S/o Arumugam the petitioner sold the mini buses. There is nothing on record to show that A.Essac was enquired to confirm the allegations. Further, the complaint made by the public seeks only service of mini buses, nothing more. The allegation of the petitioner is that the petitioner was charging exorbitant charges and plying in un-authorised route. The provisions under Section 86 (5) of the Motor Vehicles Act not followed. On the contrary, straight away cancelling the permit is not proper. Further, the petitioner being an uneducated person, his signature was obtained by deceit and same used against the petitioner. This fact not considered by the State Transport Appellate Tribunal. There should be a check report by the Motor Vehicle Inspector with date and time particulars and the persons examined, giving the violations committed by the permit holder. Thereafter, opportunity to be given to the permit holder, enquired and based on which, the Regional Transport Authority examining the persons, record their statements and thereafter, on



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satisfaction ought to have passed orders. These primary, statutory conditions not followed. The State Transport Appellate Tribunal dismissed the appeal on the ground that there is a delay in filing the appeal. He further submitted that as on date, the permit stands in the name of the petitioner and no other person given permit to the route assigned to the petitioner.

4. The learned Special Government Pleader for the respondent filed counter stating that permit given to the petitioner by competent authorities subject to certain terms and conditions. The petitioner has breached several conditions on many occasions. As mentioned by the petitioner in his affidavit, he is doing a service for public under a valid permit, petitioner cannot violate the terms and conditions of permit so granted. Finding petitioner violating condition frequently by collecting exorbitant charges and for misappropriation, the petitioner committed offence under Section 406 of the IPC, 1860 for which actions are to be initiated.

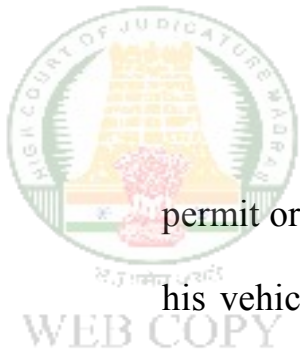
5. He further submitted that on 30.12.2016, the petitioner has stated that he has sold his vehicle bearing Registration Mark TN-45-N-0126 to one A.Essac, S/o. Arumugam, Devanallur, Sri Govindaperi before four years and he admits the same before the State Transport Appellate Tribunal. The petitioner given an undertaking that, he will subject himself to any action that



may be initiated by the competent authorities in respect of his permit. But, now, the petitioner has entirely suppressed these facts and approached this Court with unclean hands.

6. He further submitted that the other allegations levelled by the public against the petitioner is that from the year 2016, petitioner not plying the vehicle on the designated route, on time, charging excessive fare from public than the fixed fare. At this juncture, compounding the offence by imposing fine and again permitting the petitioner to operate the said vehicle in the said route will further victimize the public, hence the competent officer has cancelled the route permit by the proceedings vide 74105/A2/2016, dated 31.01.2017.

7. He further submitted that it is an admitted by the petitioner that he sold his vehicle to one A.Essac before four years back. The petitioner given a written requisition, dated 30.12.2016 to cancel the permit of his vehicle bearing Registration Nos. TN-45-N-0126 and TN-59-N-0299. The petitioner has also stated in Page No.2, Paragraph No.1 of his petition before the State Transport Appellate Tribunal that he renewed the permit from 02.02.2016 to 01.02.2021. In such aspect, the petitioner should have intimated the sale of vehicle to the permit issuing authority, attached another vehicle to the allied



permit or should have given an application to suspend the permit in respect of his vehicle sold. On the contrary, petitioner renewed the permit for his sold vehicle, which is improper and illegal.

8. Considering the submission and on perusal of the materials, it seen that till date mini buses stands in the name of the petitioner, permit in the name of the petitioner till cancellation of permit. None were examined to confirm the allegations about the petitioner violating the condition, demanding extra charges, violating route. The said A.Essac not examined by the Regional Transport Authority and there is no check report produced in this case. The public complaint for seeking service of mini buses. As regards the petitioner, there is nothing against in the representation. The mini bus number violating conditions are not available. The petitioner is an uneducated person not denied. Further, as per Section 86 (1) (C) of the Motor Vehicle Act, cancellation and suspension of permit is permitted, if the holder of the permit seizes to own vehicle covered by the permit or the holder of permit has obtained permit by fraudulent or misrepresentation or violating any of the conditions under Section 84 of the Motor Vehicle Act. In this case, no such condition prevails. Further, as per Section 86 (5) of the Motor Vehicle Act, the transport authority may, instead of cancelling or suspending the permit, as the case may be, recover from the holder of the permit the sum of money agreed



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upon, which amounts to compounding charges as per Section 206 of the MV Rules.

9. In view of the same, this Court finds that name of the mini bus still stands in the name of the petitioner. The Regional Transport Authority and the State Transport Appellate Tribunal is not considered this vital aspect. The corresponding records available with the transport authorities. The orders passed by the State Appellate Tribunal, dated 16.12.2021 and Regional Transport Authority, dated 31.01.2017 are hereby set aside. If the petitioner is otherwise eligible, the petitioner may be granted permit to run two of the mini buses. The permit for both the mini bus Registration Nos. TN-45-N-0126 and TN-59-N-0299 can be renewed on payment of requisite fees and charges. These writ petitions stands disposed of. No costs.

08.08.2022

Index : Yes / No
Internet : Yes/ No
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To
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