



W.P(MD).No.9215 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.06.2022

C O R A M

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

W.P(MD).No. 9215 of 2022

P.Lakshmi

.. Petitioner

Vs.

**The Secretary,
The Regional Transport Company Cum District Collector,
Thoothukudi.**

... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuing a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed in M.V.Appeal No.45 / 2021, dated 14.12.2021 by the State Appellate Tribunal, Chennai and set aside the same and subsequently direct the respondents to grant the Mini Stage Carriage Permit for the route Kayathar to Kallappapatty on her application, dated 14.06.2019.

For Petitioner : Mr. R.Murugapoopathy

**For respondent : Mr. S. Kameswaran
Government Advocate**



W.P(MD).No.9215 of 2022

ORDER

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The petitioner has filed this Writ Petition seeking a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed in M.V.Appeal No.45 of 2021, dated 14.12.2021 by the State Appellate Tribunal, Chennai and set aside the same and subsequently, direct the respondent to grant the Mini Stage Carriage Permit for the route Kayathar to Kallappapatty based on her application, dated 14.06.2019.

2. The petitioner had applied for grant of one Mini Bus permit to ply on the route Kayathar to Kalappapatty (via), Thaliyail Nadanthankulam Vilakku, Thalaiyal Nadanthankulam, Veppankulam Vilakku, Veppankulam. In her application she had stated that one Mini bus permit on the route Kayathar old Bus stand, which has stopped its operation due to non renewal of permit and the route is now kept vacant and as such, the petitioner has desired to serve the public and applied for a new mini bus grant so as to resume service on the above said route. The Motor Vehicle Inspector inspected that route and reported that the served sector of the route applied for, constitute with 9.2 Kms and the un-served sector is 2.4 Kms and thereafter, Regional Transport Authority considering the same



W.P(MD).No.9215 of 2022

rejected the application on the ground that the served sector exceeds the norms.

3. The contention of the petitioner is that the petitioner had made an application on 14.02.2019 and since her application was kept pending without any consideration, she had filed W.P(MD).No.7002 of 2019 and the same was disposed of by this Court vide order dated 14.06.2019 directing the respondent to dispose of the petitioner's application within a period of eight weeks. Thereafter, the Regional Transport Authority had passed an order, dated 21.09.2021. Before passing order, enquiry was held and the petitioner had appeared on 23.06.2020 and made her submissions and given details that the route length 11.1 Kms and served Sector is 4.0 kms and un-served sector is 7.1 kms and also given the route details. Thereafter, Regional Transport Officer, Tamil Nadu State Transport Corporation, Kovilpatti had sent a letter, dated 09.07.2020 giving the details that the said route from Kayathar Bus stand to Thalaiyalnadanthankulam of 5.4 Kms was served by the Corporation buses and it has been duly stopped and will be resumed for operation on requirement and hence, only the Veppankulam to Thalaiyalnadanthankulam sector of 2.4 kms is un served by them.



W.P(MD).No.9215 of 2022

Thereafter, the petitioner again appeared on 27.07.2021 along with her husband and made their submissions. Following the G.O.Ms.Nos.1523 to 1549 (Home) TR.III Dept. Dated 17.11.1999, the Regional Transport Appellate Authority held that the petitioner is not entitled to be granted mini bus permit on the route and rejected the application. Aggrieved over the same, the petitioner had filed an appeal before the State Transport Appellate Tribunal, Chennai in M.V. Appeal No. 45 of 2021 and the same was dismissed by confirming the order of Regional Transport Authority, Thoothukudi.

4. The further contention of the petitioner is that the served sector was only 4 kms when the applicant had made applications in the year 2009 and thereby, the petitioner had qualified and eligible for the route, 10 years, thereafter, during the mid of the enquiry, based on the the letter of the Transport Corporation, Regional Transport Authority rejected the application of the petitioner stating that the distance between Kayathar (Old bus Stand) to Kalappapaatti (via), Thalaiyalnadanthankulam 5.4 kms was served by the corporation buses. But, admitted that it is temporarily stopped want of patronage further depending upon the requirement, in future shall commence operations which is not proper, the reason is



W.P(MD).No.9215 of 2022

presumptive. Hence, the petitioner very much qualified, for eligibility of getting mini bus permit. He further submitted that as per Section 70 of the Motor Vehicles Act, the petitioner ought to have been given an opportunity since the reduction in the served sector had occurred due to the inordinate delay in disposing the the petitioner's application which was a future development. The petitioner on the date of application rightly applied with only 4 Kms and the 1 Kms of un served sector. Hence, the petitioner to be given an opportunity in the modification of the route, and not to have refused the grant of permit. He relied on the Judgment of the Hon'ble Supreme Court reported in **AIR 1992 SC 442** held that introduction of any number of new buses will be in the interest of travelling public and therefore, the question of unhealthy competition does not arise.

5. The respondent filed his counter and submitted that to implement the “Mini Bus Scheme” the Government of Tamil Nadu notified “Approved modified Area Scheme 1999” in G.O.Ms.Nos.1523 to 1549 (H) Tr. III Dept dated 17.11.1999 wherein an exclusion clause is provided as follows:

“The permits of mini bus operations or the operator to operate mini bus in rural areas of the district where no stage carriage service are



WEB COPY



W.P(MD).No.9215 of 2022

provided upto a route length of not exceeding 20 Kilometers with an overlapping distance not exceeding 4 kms on the route where stage carriage are operating.”

6. In this case, the stage carriage service is very much available for 5.4 Kms from Kayatharu to Thalaiyalnadanthankulam and it could be seen from the Tamil Nadu State Transport Corporation, Thirunelveli, Letter dated 09.07.2000. The contention of the petitioner that earlier the petitioner had filed W.P(MD).No.7002 of 2019 and this Court by order dated 13.02.2019 directed the respondent to consider the application of the petitioner and pass orders and thereafter, the Regional Transport Authority conducted enquiry and rejected, gave finding the petitioner is not qualified. As per G.O.Ms.No.s.1523 to 1549(H) Tr III Dept, dated 17.11.1999 the unserved route is now only 2.4 kms and hence, the Regional Transport Authority had rejected the application of the petitioner. He further submitted that presently, the policy of the Government is not to entertain any mini bus permits.

7. Considering the submissions it is seen that the petitioner had filed an application on 14.02.2019 and it was kept pending. Thereafter, the



W.P(MD).No.9215 of 2022

petitioner filed W.P(MD).No.7002 of 2019 before this Court, this Court by order dated 13.02.2019, directed the respondent to consider the application of the petitioner and pass orders, thereafter, the Regional Transport Authority conducted enquiry, rejected the application of the petitioner, Since the unserved route is not as per G.O.Ms.No.s.1523 to 1549(H) Tr III Dept, dated 17.11.1999. Presently, the un served route is only 2.4 Kms, the requirement is 4 Kms, hence, the Regional Transport Authority had rejected the application of the petitioner and thereafter, the State Transport Appellate Tribunal confirmed the same. The State Transport Corporation had given a letter dated 09.07.2000 stating that the route sought for by the petitioner for 11.1 kms in which the Transport Corporation is serving 5.4 kms. Hence, thereby, the petitioner's permit could not be entertained. Further, the Motor Vehicle Inspector Grade – I, Kovilpatti, conducted route survey along with Junior Engineer, Panchayat Union Office, Kayathar and Branch Manager of Tamil Nadu State Transport Corporation, Kovilpatti Branch gave their report. The rejection of the petitioner's application is for the reason, State Transport Corporation had commenced the service for 5.4 kms in the route applied for. The contention of the petitioner is that, had the petitioner's application considered within reasonable time, earlier he would have become eligible, for the delay of the respondent. Keeping



W.P(MD).No.9215 of 2022

the application pending for 10 years, the petitioner cannot be penalized.

Further due to changed circumstances she ought to have been given an opportunity under Section 70 of the Motor Vehicles Act to file a modified application. Hence, the rejection order passed against the petitioner confirmed by the State Appellate Tribunal are hereby set aside. The petitioner is permitted to file a modified application seeking a grant of mini bus permit and thereafter, the respondent is directed to consider the same and pass orders on merits and in accordance with law, without delay of course giving personal hearing.

8. With the above direction, the Writ Petition is disposed of. No costs.

15.06.2022

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Internet: yes/No



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W.P(MD).No.9215 of 2022

M. NIRMAL KUMAR, J.,

trp

W.P(MD).No. 9215 of 2022

15.06.2022