



W.P.(MD)No.9096 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2022

CORAM:

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

W.P.(MD)No.9096 of 2022

and

WMP(MD) No.6517 of 2022

V.Muhilvannan

.. Petitioner

Vs

1. The Transport Commissioner
Office of the Transport Commissioner,
Chepauk, Chennai- 600 005.
2. The Regional Transport Officer,
Madurai South
Madurai
3. The Motor Vehicle Inspector Grade-I
Office of the Regional Transport Office,
Madurai North, Madurai

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Letter passed by the 1st Respondent vide his Proceedings in Lr.R.No. 5690/A3/2022, dated 04.04.2022 and quash the same as illegal and consequently direct the 1st Respondent to accept the stoppage report from 01.10.2021 to 30.04.2022 in respect of the contract Carriage Omni Bus Permit bearing Registration No. TN 66 - B 4477



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For Petitioner : Mr. Asaithambi
For Respondents : Mr.P.Subburaj
Special Government Pleader

ORDER

The prayer sought for the by the petitioner is to accept the stoppage report given by the third respondent in Na.Ka.No. 20764/A3/2021 dated 10.01.2022 regarding the petitioner's Carriage omni bus permit bearing Reg. No. TN 66 B 4477 was not operated and stationed from 01.05.2021 to 31.12.2021.

2. The contention of the petitioner is that the petitioner is the owner of the Carriage omni bus bearing Reg. No. TN 66 B 4477 which is covered by permits issued by the State Transport Authority, Chennai. Due to pandemic and restrictions on travel imposed by the Government the petitioner stopped plying the vehicle from 30.04.2021. He had also informed the authorities about the stoppage of the vehicle and submitted necessary application along with necessary fees. The petitioner's vehicle was stopped from 30.04.2021 to 30.06.2021, 01.07.2021 to 31.09.2021 and 01.10.2021 to 31.12.2021, which was also verified by the third



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respondent as per the letter of the second respondent dated 27.10.2021 and the second respondent directed the third respondent to inspect the stoppage of the vehicle as per the place mentioned by the petitioner in stoppage form. The third respondent submitted his report as per the letter of the second respondent, verified the place of stoppage of the contract Carriage Omni bus and submitted a letter dated 10.01.2022 regarding the stoppage of vehicle from 01.05.2021 to 31.12.2021. This being so, the first respondent passed order dated 31.01.2022 to accept the stoppage of the petitioner's vehicle only for the period from 01.05.2021 to 30.09.2021 and directed the Motor license Officer to assess the Tax 'Nil' if required. In this regard the petitioner has also sent representations dated 11.02.2022, 30.03.2022 and 22.04.2022 to the first respondent and requested to accept the stoppage of his vehicle from 01.04.2021 to 30.04.2022. The first respondent by his letter dated 04.04.2022 refused to accept the stoppage of the vehicle from 01.10.2021 to 31.03.2022. He also further submitted that the third respondent had informed that the vehicle was stopped up to 31.10.2021. Despite the same, the first respondent failed to consider the same and give appropriate relief to the petitioner. Further the petitioner is now liable to pay a tax of Rs.3000/-



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per seat per quarter and has to pay a quarterly tax of Rs.1,47,000/-, which amounts to a tax of Rs.1650/- per day, even if the vehicle is not used. Since the petitioner's application dated 04.04.2022 is refused, the present application has been filed.

3. The learned Special Government Pleader appearing for the respondents would submit that impugned letter dated 04.04.2022 is self explanatory. It is clearly stated in the letter that the Government had allowed 50% seating capacity by following the Standard Operating Procedures by 22.09.2021. Further 100% seating capacity was allowed by following the Standard Operating Procedure by 23.10.2021. Further as per Rule 176(2) of the Tamil Nadu Motor Vehicle Rule, 1989, the condition precedent is that the holder of the permit should have obtained prior permission in writing from the transport authorities, suspend service of the vehicle for a specific period except 10 days. In this case, the petitioner had sent representation on 11.02.2022 for a period from 01.10.2021 to 31.03.2022, which is a post permission letter. In view of the same, the transport Commissioner had rejected the same for the following reasons:



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- i) the application was not submitted prior to the date of stoppage
- ii) the application was not made for every 20 dates with prescribed fees.

4. In any angle the contention of the petitioner cannot be considered and had rightly rejected the same. The petitioner now attempting to take advantage of the third respondent report that the vehicle was stopped from 01.05.2021 to 31.12.2021 could not be considered. Due to Covid-19 pandemic situation relief was given for specific period otherwise the petitioner ought to have followed the procedure as per Section 172 (6) of the Tamil Nadu Motor Vehicle Rules.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. It is seen that the Government of Tamil Nadu by communication No.30794/ D.M.IV(1)/2021 dated 22.09.2021 had permitted to ply vehicles with 50% seating capacity following the Standard Operating Procedure and the Government of Tamil Nadu vide press release dated



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23.10.2021 had permitted the vehicles to ply with 100% seating capacity by adopting the Standard Operating Procedure. The petitioner's vehicle being stopped for various reasons upto 31.12.2022 cannot be considered for the purpose of giving relaxation for payment of tax. Further pay of tax is a statutory obligation, hence this Court finds no reason to entertain the writ petition.

7. In view of the same, the petition stands dismissed. It is made clear that the petitioner is given opportunity to agitate his rights before the appropriate authorities. Due to the above petition, the petitioner could not approach the concerned authorities and forum within time. Hence any delay in filling petition is hereby condoned. The petitioner to approach the authorities or forum within three weeks from the date of receipt of a copy of this order. Thereafter the same to be disposed on merits without raising any objection on technicalities and delay.



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8. With the above observation the Writ Petition stands disposed of.

No costs. Consequently connected miscellaneous petition is also closed.

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Index: Yes/No

Internet : Yes/No

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Note: Registry is directed to return the original impugned order to the petitioner after substituting it with the photostat copies.

To

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Chepauk, Chennai- 600 005.
2. The Regional Transport Officer,
Madurai South
Madurai
3. The Motor Vehicle Inspector Grade-I
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M.NIRMAL KUMAR, J.

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