



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.06.2022**

CORAM:

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

W.P.(MD)No.9184 of 2022

S.Pauldurai

.. Petitioner

Vs

The Secretary,
The Regional Transport Officer,
Regional Transport Office,
Tirunelveli.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent accept petitioner's renewal application to renew his minibus permit bearing Registration No.TN 72 N 0129 and Permit No.39/MB/2005 without the No Objection Certificate of the financier.

For Petitioner

: Mr.R.Muruga Boopathy

For Respondent

: Mr.C.Satheesh

Government Advocate

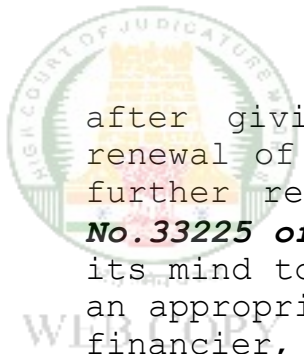
ORDER

This writ petition has been filed seeking mandamus to direct the respondent accept the petitioner's renewal application to renew his minibus permit bearing Registration No.TN 72 N 0129 and Permit No.39/MB/2005 without the No Objection Certificate of the financier.

2.The contention of the petitioner is that on 26.12.2018 he had purchased minibus bearing registration No.TN 72N 0129 and Permit No.39/MB/2005 from one Thangaraj. The vehicle's documents have been transferred in the name of the petitioner. Thereafter, the petitioner had sent renewal application to the respondent on 28.12.2021 for renewal of permit for the minibus bearing registration No.TN 72 N 0129 and Permit No.39/MB/2005. The further contention of the petitioner is that the respondent, without taking any action, kept his renewal application. Thereafter, the petitioner approached the respondent on various occasions requesting to process his renewal application. At that time, the respondent insisted the petitioner to produce No Objection Certificate from the financier. Though the petitioner purchased the vehicle on 26.12.2018, the petitioner not received any communication from the financier. Hence, the petitioner caused notice to the financier on 26.11.2021 and 14.01.2021. Thereafter, the financier sent reply notice to the petitioner on 27.12.2021.

3.The learned counsel appearing for the petitioner referring to Section 51(9) of Motor Vehicles Act, submitted that even in a case where the financier refused to issue the Certificate applied for,

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after giving the applicant an opportunity of being heard, the renewal of permit can be considered. In this case, the petitioner further relied on the decision of **Kerala High Court, in W.P(C). No.33225 of 2018** stating that the registering authority has to apply its mind to the objections, if any, raised by the financier and take an appropriate decision as to whether despite such objections of the financier, the applicant is entitled for renewal of permit and further in this case the petitioner not given opportunity to give his explanation.

4.Mr.C.Satheesh, learned Government Advocate appearing for the respondent submitted that the minibus bearing registration No.TN 72 N 0129 and Permit No.39/MB/2005 is under hypothecation. The renewal application submitted by the petitioner on 28.12.2021 could not be further processed, since the financier Rajendra Kumar Pakmar had sent his objection. He fairly submitted that applicant was not heard on this aspect, no opportunity given.

5.This Court finds that Section 51(9) of the Motor Vehicles Act, is specific that in a case where the financier refused to issue the Certificate applied for, after giving the applicant an opportunity of being heard and thereafter renewal or otherwise, to be considered by the Regional Transport Officer. Hence, the respondent is directed to give an opportunity to the petitioner and consider his renewal application for renewal of his minibus permit bearing Registration No.TN 72 N 0129 and Permit No.39/MB/2005. The enquiry shall be conducted within a period of three weeks from the date of receipt of a copy of this order.

6.With the above direction, this writ petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsg

To:
The Secretary,
The Regional Transport Officer,
Regional Transport Office, Tirunelveli.

+1 CC to M/s.SPL.GP (SR-24395[F] dated 07/06/2022)

W.P. (MD)No.9184 of 2022

06.06.2022