



W.P(MD).No.12984 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.12984 of 2022

and

W.M.P(MD).No.9218 of 2022

D.S.Velmurugan,
Proprietor,
Sri Senthilmurugan Transport,
2, West Ponnagaram 7th Street,
Madurai-625 016.

... Petitioner

Vs.

- 1.The District Collector Cum
The Regional Transport Authority,
Collector Office,
Madurai.
- 2.The Regional Transport Officer,
Madurai South,
Regional Transport Office,
Madurai.
- 3.The Regional Transport Officer,
Madurai North,
Regional Transport Office,
Madurai.
- 4.The Motor Vehicle Inspector,
Unit Office,
Vadipatti,
Madurai.



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5.The Motor Vehicle Inspector,
Unit Office,
Batlagundu,
Madurai.

6.M.Jakkammal

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to cancellation of permit of the vehicle number TN-59-BW-9867 plying in the route Periyakulam to Madurai (Via Batlagundu, Nilakottai, Anaipatti, Karattupatti, Solavanthan, Melakkal) as requested in the petitioner's representation, dated 08.03.2022.

For Petitioner	: Mr.T.Padmanabhan For Mr.J.Nantha Kumar
For R1 to R5	: Mr.S.Kameswaran Government Advocate
For R6	: Mr.Asaithambi

ORDER

In continuation and conjunction with the earlier orders passed by this Court on 23.06.2022, the following order is passed. The earlier order is hereunder:

“Mr.S.Kameswaran, learned Government Advocate takes notice for the respondents 1 to 5 and Mr.A.C.Asai Thambi, learned counsel takes notice for the sixth respondent.

2. The grievance of the petitioner is that the petitioner has sent a representation against the sixth respondent, who has been cautiously violating the stage carriage road permit. He is a Stage Carriage Bus Operator and operating the bus in the route Periyakulam to Madurai (Via Batlagundu, Nilakottai,



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Silukkuvarpatti, Pallapatti, Vadipatti, Nagari, Samayanallur) bearing registration No.TN 63 AL 9667, which is starting from Batalagundu Bus Stand at 7.06 a.m. At the same time, the sixth respondent is operating a Stage Carriage bus namely SCM RAJA Transport, bearing Registration No. TN 59 BW 9867 at 7.07 a.m. The sixth respondent is permitted to ply the bus in the route Periyakulam to Madurai (Via Batlagundu, Nilakottai, Andipatti, Mattaparai, Solavanthan, Melakkal, Thuvariman). But the sixth respondent is operating her bus in the unpermitted route (i.e.,) Periyakulam to Madurai (Via Batlagundu, Nilakottai, Silukkuvarpatti, Pallapatti, Vadipatti, Nagari, Samayanallur). The sixth respondent is not following the permitted rule. Further, competing with the petitioner's route and causing loss of income to the petitioner, he has sent a representation to the respondents, but, no action has been taken.

3. The sixth respondent has filed a Writ Petition in W.P. (MD)No.23051 of 2021 questioning the check report issued violating the permit dated 18.12.2021. Yet another Writ Petition in W.P.(MD)No.863 of 2022 was filed by the sixth respondent and the same was disposed on 21.01.2022 directing the first respondent to pass appropriate order.

4. Mr.A.C.Asai Thambi, learned counsel for the sixth respondent submits that on 05.02.2022, the petitioner had given a request for change of route and the same was rejected due to construction of railway track over bridge. The same was rejected for the reason that the bus of the petitioner could not be transferred in the unpermitted route within a stipulated time. Thereafter, he filed an appeal before the State Appellate Authority in A.No.4 of 2022 and the case is posted on 29.06.2022. However, there is a dispute between the petitioner and the sixth respondent, since the routes overlapped. The sixth respondent had earlier sought for change of route, due to undergoing works and the same is pending.

5. With regard to the petitioner's representation dated 02.05.2022, the learned Government Advocate seeks time to file counter.

6. Post the matter on 18.07.2022.”



2. Today, the respondent produced the order passed by the Regional Transport Authority in R.No.26474/A3/2022, dated 08.07.2022, wherein, the Motor Vehicle Inspector issued check report on 26.05.2022 that the vehicle bearing Registration No.TN-59-BW-9867 violate the permit route. As per Section 86 of Motor Vehicle Act read with Rule 205 of Tamil Nadu Motor Vehicles Rule 1989, suspended the permit for a period of thirty days from 15.07.2022 to 13.08.2022. Thereafter, the Regional Transport Officer, Madurai South in Na.ka.No.45273/A3/2021, dated 13.07.2022 by considering the petitioner's representation, dated 08.03.2022 levied compounding fee on the SCM RAJA Transport for vehicle bearing Registration No.TN-59-BW-9867 for violating the permit. The sixth respondent continuously violating the conditions of the permit. Now, the permit suspended from 15.07.2022 to 13.08.2022.

3. The learned counsel for the petitioner submits that by imposing the compounding fee will not be sufficient unless the vehicle is stopped from running otherwise the offenders would pay the compounding fee and get away from the same. He further submitted that the sixth respondent moved each authority and obtained order in her favour.



4. The learned counsel for the sixth respondent submits that the sixth respondent filed an appeal in M.V.No.16 of 2022 and I.A.No.12 of 2022. He further submits that finding suspension of transport permit not proper, stayed the order of the Regional Transport Authority till 28.07.2022.

5. The petitioner refuted and submitted that the Regional Transport Authority passed the order on 08.07.2022 and the same was communicated to sixth respondent by the Transport Officer on 13.07.2022 within a day. On 14.07.2022, sixth respondent approached the State Appellate Tribunal. He further submitted that already appeal is pending in A.No.4 of 2022 for the same violation and now M.V.No.16 of 2022 filed. In both the cases, the sixth respondent not shown petitioner as a respondent in those proceedings. The Appeal No.4 of 2022 pertains to this issue and there are 18 operators who are operating in the said route. The permit route could not be followed due to Railway Over Bridge work at diversion for that reason the sixth respondent approached the Transport Authority, for modification, which was negatived. Hence, the sixth respondent filed an appeal before the State Appellate Tribunal.

6. The petitioner to approach the State Appellate Tribunal, file his impleading petition in both the A.No.4 of 2022 and M.V.No.16 of 2022. The



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petitioner sought a direction to be issued to the Transport Authorities to ensure sixth respondent to follow the permit route and ply in the route allotted to him. The State Appellate Tribunal is directed to take up Appeal No.4 of 2022 and dispose of the same on merits and in accordance with law within a period of two months from the date of receipt of copy of this order.

7. The writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

18.07.2022

Index : Yes / No
Internet : Yes/ No
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Regional Transport Office,
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M.NIRMAL KUMAR, J.

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