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W.P(MD).No.20531 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.20531 of 2022

S.Pauldurai

... Petitioner

Vs.

The Regional Transport Authority,
(Cum) District Collector,
District Collectorate,
Tirunelveli.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, direct the Respondent to grand temporary permit to the Petitioner's minibus bearing Registration No.TN-72-AM-1234 as per Section 87 of the Motor Vehicle Act, based on Petitioner's application dated 20.08.2022.

For Petitioner : Mr.R.Murugapoopathy
For Respondent : Mr.M.Siddharthan
Additional Public Prosecutor

ORDER

This Writ Petition has been filed praying for a writ of Mandamus to direct the Respondent to grand temporary permit to the Petitioner's minibus bearing Registration No.TN-72-AM-1234 as per Section 87 of the Motor Vehicle Act, based on Petitioner's application dated 20.08.2022.



2. The Petitioner purchased a minibus bearing Registration No.TN-72-N-0129 and Permit No.39/MB/2005 from one Thangaraj on 26.12.2018. All the records were transferred to the Petitioner's name as per the Provision of the Motor Vehicle Act. The Petitioner has applied for renewal of permit of minibus bearing Registration No.TN-72-N-0129 and Permit No.39/MB/2005 on 28.12.2021. The Petitioner's application was returned by the Respondent on 14.03.2022 with an instruction to resubmit renewal application with No Objection Certificate from the Financier. It was then that the Petitioner realised the minibus was covered by a hire purchase agreement with one Mr.Rajendra Kumar Pakmar from Chennai. The Petitioner approached the Respondent on numerous occasions to process his renewal application, dated 28.12.2021. However, no decision was taken on the renewal application by the Respondent without complying with Proviso to Section 51 (6) of the Motor Vehicle Act.

3.The renewal application was returned by the Respondents, the Petitioner had challenged the same in W.P(MD)No.9184 of 2022, wherein, this Court issued the following directions:

“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 copy of this order.”

4. The Respondent conducted an enquiry on 05.07.2022. The Financier was not present, however, the Petitioner understood that Financier was represented by Power of Attorney and it appears that no documents were furnished by the Financier to prove the outstanding due. Despite the same, the Petitioner's request for renewal of minibus bearing Registration No. TN-72-N-0129 and Permit No.39/MB/2005 came to be rejected. The Petitioner has filed an appeal against the rejection order. In the meantime, the Petitioner has filed an application for temporary permit in terms of Section 87 of the Motor Vehicle Act in order to tide over the financial crisis. The application, dated 28.12.2021 under Section 87 of the Motor Vehicle Act for temporary permit is still pending consideration.

5. In the circumstances, it is submitted by the learned Additional Government Pleader for the Respondent that the application for issuance of temporary permit in respect of minibus bearing Registration No.TN-72-AM-1234 shall be considered and orders passed in accordance with law



within a period of 4 weeks from the date of receipt of copy of this order.

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6. In view of the above submission, the Respondent is directed to consider and pass orders in the application for issuance of temporary permit in respect of minibus bearing Registration No.TN-72-AM-1234 in accordance with law within a period of 4 weeks from the date of receipt of copy of this order after affording a reasonable opportunity to the Petitioner. It is made clear that this Court has not expressed any opinion on the correctness or otherwise of the order rejecting the renewal application in respect of permit in relation to minibus bearing Registration No.TN-72-AM-1234.

7. With the above direction, the writ petition stands disposed of. No costs.

03.11.2022

Index : Yes / No
Internet : Yes/ No
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To
The Regional Transport Authority,
(Cum) District Collector,
District Collectorate,
Tirunelveli.

MOHAMMED SHAFFIQ, J.



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