



W.P(MD).No.20145 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :15.11.2022

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**THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

W.P(MD).No.20145 of 2021

R.Lakshmi Narayanan

... Petitioner

**Vs.**

1.The State Transport Appellate Tribunal,  
City Civil Court Campus,  
Chennai-600104.

2.The Regional Transport Authority,  
Trichy District,  
Trichy.

3.C.Shanmugasundaram

...Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1<sup>st</sup> Respondent in M.V.Appeal No.46/2020, dated 16.08.2021 confirming the order of the 2<sup>nd</sup> Respondent vide his proceedings in R.No.110030/A4/2006, dated 28.02.2020 rejecting the renewal of permit and quash the same as illegal and consequently direct the 2<sup>nd</sup> Respondent to allow the Petitioner's renewal of permit in respect of Mini Bus bearing Registration No.TN-59-N-0312 along with replace the Mini Bus as bearing Registration No.TN-67-A-0900 to ply on the route Manapparai R.V.Mahal to Veerakovilpatti from 12.12.2006 onwards within the time framed as fixed by this Court.

For Petitioner : Mr.A.C.Asaithambi





preferred an appeal in M.V.Appeal No.157 of 2008 before the 1<sup>st</sup> Respondent,  
the 1<sup>st</sup> Respondent passed the following orders:

*“10. As already stated, at the time of interim order passed in I.A. 85/2008, this Tribunal directed the appellant to produce the vehicle. But the appellant has not produced the vehicle. Further, the appellant himself has admitted that the vehicle was not produced before the authorities of M/s. Ashok Leyland and Forensic Department for inspection of the vehicle. The Departmental Representative would contend that the above said allegations of the appellant are false and therefore requested to confirm the order passed by the Regional Transport Authority.*

*11. From both sides arguments, I am of view that opportunity was given to the appellant to prove the facts alleged by the appellant and if he proved the above said facts, then, the Regional Transport Authority has considered the facts and pass necessary orders on renewal application and if the above said facts alleged are not proved by the appellant, then, the Regional Transport Authority reject the above said application and therefore, the order of the Regional Transport Authority is to be set aside and the matter is to be remitted back for fresh consideration and this point is answered accordingly.*

*12. Point No. (ii): In view of the findings in point No. (i), the appeal is to be allowed and the order of the Regional Transport Authority is to be set aside and the matter is to be remitted back to the respondent for fresh consideration in accordance with law and in the light of the observations made above and this point is answered accordingly.*

*In the result, the appeal is allowed and the order of the Regional Transport Authority, Tiruchirappalli, made in Proceedings R.No. A4/110030/2006, dated 3.6.2008 is set aside and the matter is remitted back to the respondent for fresh consideration in accordance with law and in the light of the observations made above within three months from the date of receipt of the copy of this judgment along with connected records.”*

3. The same was challenged by the Petitioner in W.P.No.9332 of 2010.



This Court was pleased to pass the following order in the said writ petition:

*“10. In the light of the above submissions made by the learned Senior Counsel for the Petitioner, this writ petition is disposed of giving direction to the second respondent to consider the issue i.e., seeking renewal of permit as well as replacement of the vehicle afresh, by following the statutory provisions, if necessary by making inspection to find out whether the old vehicle is available or not, and pass fresh orders in accordance with law, within a period of six weeks from the date of receipt of copy of this order. No costs. Connected miscellaneous petitions are closed.”*

4. The Petitioner had submitted a representation, dated 24.06.2011, whereby, the Petitioner made a request for renewal of permit or replacement of permit in respect of mini bus bearing Registration No.TN-67-A-0900 in place of mini bus bearing Registration No.TN-59-N-0312. Thereafter, the Petitioner had submitted two applications for renewal of permit on 05.07.2018 for the period from 13.12.2011 to 12.12.2016 and 13.12.2016 to 12.12.2021. The writ petition was filed in W.P(MD)No.26708 of 2019 to pass orders on the Petitioner's renewal application, dated 05.07.2018 for the period from 13.12.2011 to 12.12.2016 and 13.12.2016 to 12.12.2021 along with the first renewal application, dated 02.11.2006 in respect of the Petitioner's mini stage carriage permit bearing Registration No.TN-67-A-900 to ply on the route of Manapparai R.V.Mahal to Veerakoilpatti. This Court was pleased to issue the following direction:

*“4. Considering the above said facts and circumstances and*



*since the matter is pending for more than ten long years, the first respondent/The Regional Transport Authority, Trichy is directed to consider the Renewal Applications, dated 05.07.2018 for the period from 13.12.2011 to 12.12.2016 and 13.12.2016 to 12.12.2021 along with the first renewal application, dated 02.11.2006 and pass orders on merits and in accordance with law, after providing an opportunity of hearing to all the necessary parties including the petitioner, within a period of two weeks from today.”*

5. The Petitioner had submitted his written arguments before the 2<sup>nd</sup> Respondent on 11.02.2020. On considering the Petitioner's request, an order was passed by the 2<sup>nd</sup> Respondent on 28.02.2020, wherein, it was held as under:

*“As for the application for replacement of vehicle, the Hon'ble High Court Madras ordered this authority to consider the application for renewal of permit as well as replacement of vehicle if only the old vehicle is available with the permit holder. So, the applications for renewal of permit as well as application for replacement of vehicle are liable for rejection if the permit holder failed to produce the old vehicle before this authority. Hence, the applications for renewal of permit and replacement of vehicle deserve to be rejected.*

*But Clause (c) of Sub-Section (1) of Section 86 of the Act, specifically states that if the holder of the permit ceases to own the vehicle covered by the permit, such permit is liable for cancellation/suspension. This Clause (c) was not included under Section 86(5) of the Act, and so this offence is not compoundable.*

*Moreover Clause (iii) of Rule 202 specifically says that if the holder of the permit contravened the provisions thereof or has been deprived of possession of the old vehicle under the provisions of any agreement of hire purchase, the application for replacement of vehicle may be rejected by the Transport Authority. In both the provisions, the possession of old vehicle is*



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*insisted falling which the permit can be suspended/cancelled without option to compound the offence; or application for replacement of vehicle rejected.*

Finally, it was concluded as follows:

*“Hence in exercise of the powers conferred on me under Rule 202 of Tamil Nadu Motor Vehicles Rules, 1989, I, the Regional Transport Authority, Trichirappalli (West), do hereby reject the application for replacement of vehicle as the applicant is not having old vehicle; and also reject the application for renewal of permits filed for the period from 13.12.2006 to 12.12.2011, 13.12.2011 to 12.12.2016 and 13.12.2016 to 12.12.2021 as the applicant failed to produce the old vehicle as directed by the Tribunal in its order dated 05.11.2009 and by the Hon'ble High Court Madras in its order dated 04.08.2010 in M.P.No.1 to 3 of 2010 and in W.P.No. 9332 of 2010.”*

A reading of the above order would show that it has rejected the application for renewal and replacement of permit for a period from 13.12.2006 to 12.12.2011, 13.12.2011 to 12.12.2016 and 13.12.2016 to 12.12.2021, in view of the fact that the applicant had failed to produce the old vehicle as directed by the Tribunal, vide order, dated 05.11.2009 and by this Court, dated 04.08.2010.

6. An appeal in M.V.Appeal No.46 of 2020 was filed by the Petitioner challenging the above order, dated 28.02.2020 before the 1<sup>st</sup> Respondent. The 1<sup>st</sup> Respondent confirmed the order of the 2<sup>nd</sup> Respondent and importantly, the following facts are recorded:

*“In the meantime, the Assistant Director of Forensic*



Department, also vide letter dated 21.08.2008, in Lr No. 339/Phy/2008, (vide Page No.193 of Volume II of Regional Transport Authority's file) informed the Regional Transport Officer that they will visit in order to conduct inspection of the vehicle between 01.09.2008 and 02.09.2008 and the name officials who are likely to visit was mentioned in the letter. Again the Regional Transport Officer, issued a letter dated 22.08.2008 (vide page No.203 of Volume II of Regional Transport Authority's file) to the appellant with a request to produce his vehicle on 01.09.2008 at 9.00 clock before the Regional Transport Officer, Trichirappalli, for inspection and the same was received by the appellant on 25.08.2008. The appellant on 26.08.2008, addressed a letter to the Secretary, Regional Transport Authority, Trichirappalli, by stating that the vehicle TN-59-N-0312 was met with an accident on 26.06.2008 when it was returning back after inspection before the Regional Transport Officer, and heavily damaged and it was dismantled for repairs and due to his family situation, he could not incur the expenses and decided to replace the vehicle and requested replacement of vehicle before this Tribunal and hence, could not able to produce the vehicle for inspection.”

7. After referring to the earlier order of the Tribunal, dated 05.11.2009, finally held that the application for renewal is liable to be rejected in view of the following:

“29. The appellant has not produced any photograph of the vehicle, when it was met with an accident, bills produced for estimated cost of repairs. If the vehicle is really met with an accident, he could intimate the same to the appropriate authority and request them to inspect the vehicle, as continuously the authority had disputed the existence of the vehicle. Further he should inform the incident to police to claim insurance but no such complaint or insurance claim produced to prove the accident, which proved that the had produced a fake vehicle before the Motor Vehicle Inspector (in order to comply the direction of this Tribunal) and with a view to escape from the



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*forensic verification and in order to conceal the truth, created a concocted story by stating that the vehicle was met with an accident, damaged, dismantled etc.,*

*30. The above detailed analysis shows that the vehicle in question of permit which require renewal is proved as non existence, in order to create a make belief story, a vehicle was produced before the authority which is not conformity with the original make, both this Tribunal and the Hon'ble High Court directed to verify whether the vehicle is available and to pass orders, if he failed to prove the fact, instructed the authority to reject, the fact is not proved. Since the appellant failed to prove the above, the authority rightly hold that since he has not proved the existence of vehicle dismissed the renewal and therefore the action of the authority need no interference.”*

8. Against the above background, the learned counsel for the Petitioner submits that the Petitioner is entitled to seek replacement of the vehicle in terms of Rule 83 of the Motor Vehicle Rules and replacement would not require the production of the original vehicle in respect of which the permit was granted.

9. In this regard, reliance was sought to be placed on the judgment of the Hon'ble Supreme Court in the case of ***M/s. Automobile Transport Rajasthan Private Limited Vs Regional Transport Authority, Jaipur*** reported in ***AIR 1968 Rajasthan 334***. Relevant portion reads as under:

*“8. The main question, however, in this appeal is whether the order of replacement of the bus was rightly set aside by the learned single Judge. For this the provision contained in Section 59 (2) is to be examined. It is contended by respondent No. 3 that the Regional Transport Authority could not have granted replacement as at the time the replacement was order-*



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*ed, the appellant owned no vehicle which could be said to be covered by the permit. It had also sold bus RJZ 203 on 26th December, 1963. Learned counsel for the appellant has, however, argued that even when the permit-holder had ceased to be owner of the vehicle which was initially covered by the permit issued to it, the replacement could be ordered as it was only seeking to replace the vehicle which was covered by the permit. The argument is that suppose the vehicle of a permit-holder is burnt or is drowned, then he ceases to own any vehicle for the time being. Yet it will not be proper construction of Section 59 (2) to hold that he cannot get that vehicle replaced and therefore, the expression "covered by the permit" cannot be construed as meaning that the permit-holder must own the bus on the date when he is applying for replacing it. In our opinion, this contention must be accepted.*

10. It is submitted by the learned counsel for the respondents that a permit holder to seek replacement of the vehicle with reference to a permit must show the existence of a valid permit on the date when the replacement is sought to be made. It appears that the above arguments need to be rejected in view of the fact that in the present case, admittedly, the original permit expired on 12.12.2006 and the renewal application though has been filed on 02.11.2006, no evidence/material has been let in before any of the authorities, to show the Petitioner subsequent to the expiry period, had obtained temporary permit in terms of Rule 87 (1)(d) of the Motor Vehicle Rules. The temporary permit again is only for a period of four months and in exceptional circumstances, it may be extended beyond four months, but shall not exceed a year. However, in the present case, there is no material, which has been let in



to demonstrate that there has been even an application for temporary permit, much less temporary permit being granted. The only inference that one could draw is that since 12.12.2016, there was neither a permit nor a temporary permit. The present request of the Petitioner for replacement as stated earlier, presupposes the existence of valid permit. However, there was neither a permit nor a temporary permit beyond the period 12.12.2006.

11. Secondly, the Petitioner's inability to produce the original vehicle on the premise that it met with an accident and therefore, had to be scrapped again is suspicious. The accident occurred on 26.06.2008, according to the Petitioner, which was doubted by the Tribunal in view of the fact that no material was let in by the Petitioner in the form of bills produced for estimated cost of repairs or intimation to the appropriate authority requesting to inspect the vehicles and nor has any complaint or insurance claim lodged. All of these had compelled the Tribunal to arrive at a conclusion that the case set out by the Petitioners does not reflect the true state of affairs.

12. This Court has no reason to interfere with the findings of the Tribunal which are essentially questions of facts, inasmuch as any question of fact can be interfered with under Article 226 of the Constitution of India only



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when shown to be perverse, which is not the case here. It is trite law that the interference under Article 226 of the Constitution of India interference on a question of fact is not warranted unless shown to be perverse and palpably arbitrary.<sup>1</sup> The writ petition stands dismissed. No costs.

**15.11.2022**

Index : Yes / No  
Internet : Yes/ No  
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**MOHAMMED SHAFFIQ, J.**

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To:

1.The State Transport Appellate Tribunal,

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<sup>1</sup> (1996) 7 SCC 613, (2002) 9 SCC 585



City Civil Court Campus,  
Chennai-600104.



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2. The Regional Transport Authority,  
Trichy District,  
Trichy.

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