



W.P. (MD) No. 27992 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2022

C O R A M

**THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU**

W.P. (MD) No. 27992 of 2022

and

W.M.P.(MD)Nos. 22078, 22079 & 22082 of 2022

J.Lalitha Jambunathan

... Petitioner

Vs.

- 1.The Regional Transport Authority,  
Thanjavur,  
Thanjavur District.
- 2.The Regional Transport Officer,  
Thanjavur,  
Thanjavur District.
- 3.The Motor Vehicle Inspector Grade - I,  
Unit Office,  
Pattukkottai,  
Thanjavur District.

... Respondents



W.P. (MD) No. 27992 of 2022

**PRAYER:** Writ 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 Memorandum R.No.46286/A2/2022, dated 14.10.2022 passed by the 1st Respondent and quash the same as illegal, and consequently directing the Respondents to accept the stoppage from 01.01.2021 to till today in respect of the petitioner's Spare Bus bearing Registration No. TN 45 AF 6777 within the time stipulated by this Court.

For Petitioner : Mr. A.C.Asaithambi  
For Respondents : Mr. K.S.Selvaganesan  
Additional Government Pleader

### **ORDER**

Heard Mr. A.C.Asaithambi, Learned Counsel for the Petitioner and Mr. K.S.Selvaganesan, Learned Additional Government Pleader, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings in R.No.46286/A2/2022, dated 14.10.2022 issued by the First Respondent, which is evidently a notice calling upon the Petitioner to remit motor vehicle tax due for him within 7



days from the date of its receipt. It is needless to add here that if the Petitioner disputes her liability to meet such demand to pay tax, she would have to submit her reply in that regard.

3. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in ***Union of India -vs- Kunisetty Satyanarayana [(2006) 12 SCC 28]*** that a charge memo or show cause notice cannot be challenged before the completion of enquiry and the proceedings cannot be interdicted till it reaches its logical conclusion. It would be useful here to extract the relevant passages from the said decision which read as follows:-

*“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board -vs- Ramdesh Kumar Singh [JT 1995 (8) SC 331], Special Director -vs- Mohd. Ghulam Ghouse (AIR 2004 SC 1467), Ulagappa -vs- Divisional Commissioner, Mysore [2001(10) SCC 639], State of U.P. -vs- Brahm Datt Sharma (AIR 1987 SC 943) etc.*

*14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause*



*notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.*

*15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.*

*16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”*

4. Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioner from raising the contentions in this Writ

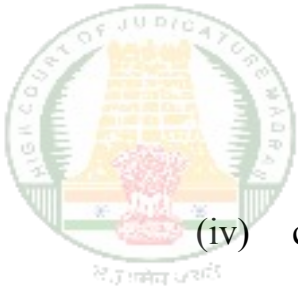


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Petition in the reply to be submitted to the First Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for the Court to interfere at this pre-mature stage of the matter.

5. In such circumstances, without expressing any view on the merits of the controversy involved in the matter, the Writ Petition is disposed on the following terms:-

- (i) it shall be incumbent upon the Petitioner to submit her explanation to the impugned notice, if not done already, to the concerned authority by 31.12.2022;
- (ii) in the event of not being satisfied with the explanation submitted by the Petitioner, an enquiry shall be conducted following the prescribed procedure after affording full opportunity of personal hearing to the Petitioner to explain her position in that regard and a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment;
- (iii) if any adverse decision is taken, the Petitioner may pursue legal remedies in accordance with law;



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(iv) consequently, the connected Miscellaneous Petitions are closed; and

(v) there shall be no order as to costs.

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13.12.2022

Index : Yes/No

Internet : Yes/No

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**Note: Issue order copy by 28.12.2022.**

To

- 1.The Regional Transport Authority,  
Thanjavur,  
Thanjavur District.
- 2.The Regional Transport Officer,  
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Thanjavur District.
- 3.The Motor Vehicle Inspector Grade - I,  
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**P.D.AUDIKESAVALU,J.**

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