



C.R.P.No.143 of 2021&
C.M.P.Nos.1332, 1333, 4014 and 4013 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

**C.R.P.No.143 of 2021 and
C.M.P.Nos.1332, 1333, 4013 and 4014 of 2021**

R.Revathi

... Petitioner

Vs.

The Regional Transport Authority,
cum – District Collector,
Nagapattinam

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed by the learned State Transport Appellate Tribunal in M.V.Appeal No.6 of 2020 dated 17.12.2020 confirming the order of the respondent made in R.No.14044/B1/2019 dated 10.01.2020 rejecting the application for permitting the petitioner's minibus TN-51/E-9873 to go inside the Mayiladuthurai Municipal Bus Stand and allow this petition.

For Petitioner : Mrs. Radha Gopalan
Senior Counsel

For Respondent : Mr.Edwin Prabhakar
Special Government Pleader assisted by
Mr.B.Tamilnidhi
Additional Government Pleader



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ORDER

The present Revision has been filed to set aside the order passed by the learned State Transport Appellate Tribunal in M.V.Appeal No.6 of 2020 dated 17.12.2020 confirming the order of the respondent made in R.No.14044/B1/2019 dated 10.01.2020 rejecting the application for permitting the petitioner's minibuss TN-51/E-9873 to go inside the Mayiladuthurai Municipal Bus Stand and allow the present Revision.

2. The brief facts of the case are as follows:-

The petitioner, who is holding a mini bus permit in respect of the vehicle bearing regn. no.TN 51/E 9873 plying on the route Mayiladuthurai Lakshmi Vilas Bank to Kannianatham, made an application on 23.04.2019 to the respondent seeking to permit the vehicle inside the Mayiladuthurai Municipal bus stand. The said application was rejected based on the report submitted by the field officer on 10.01.2020 vide proceedings in Mu.Aa.No.14044/E1/2019. Aggrieved by the said order the petitioner preferred an appeal before the State Transport Appellate Tribunal, Chennai. The appellate authority upon considering the submissions on either side and the relevant documents produced on record, dismissed the appeal. Seeking to reject the said order, the preset Revision has been filed.



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3. The learned counsel for the petitioner would submit that the petitioner has produced the photographs to show that in the present terminus, which is situated next to Lakshmi vilas Bank, earlier, there was a open space belonging to a private party and at that place 'Seemati Sarees' has been opened and in view of the same, the owner of the said building, isnot allowing the petitioner's bus to stop there and therefore, the petitioner finds it very difficult for the ingress and egress of the passengers. As per the circular of the Transport commissioner, Chennai dated 29.11.2000, the main purpose for touching the bus stand is to serve the rural public to reach the bus stand and the same was not considered by the tribunal.

4. The learned counsel for the petitioner would further contend that the appellate court failed to see that in the orders in W.P.Nos.17103 and 17104 of 2019 dated 22.10.2019 and in W.P.(MD) No.22697 of 2015 dated 16.07.2018, this Court has taken into account the Judgment of the W.A.No.582 of 2008 dated 14.07.2018 and then only, allowed the vehicle to enter the bus stand, therefore, the tribunal ought to have followed the said Judgment and permitted the request of the petitioner to touch the bus stand. Looking at from any angle, the impugned order of the appellate court cannot be supported in law, therefore sought to allow the present Revision.



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5. Lastly, the learned counsel for the petitioner to substantiate his contention has relied on the following Judgments:-

(i) Judgment of the Hon'ble Supreme Court reported in AIR 1969 SC 273 [M/s Standard Motor Union Private Ltd., Vs. The State of Kerala & Others]

(ii) Judgment of the Hon'ble Supreme Court reported in (1985) 1 SCC 641 [Indian Express Newspapers (Bombay) Vs. Union of India and Others]

(iii) Judgment of the Andhrapradesh High Court in the case of M.Gangappa Vs. The Govt., of A.P., and others reported in 1975 AIR (A.P.) 138.

(iv) Judgment of High Court of Karnataka [State Road Transport Corporation Vs. Sri Pauli Govis and Annother etc.] reported in 1996 AIR (Karnataka) 247.

6. Per contra, the learned Special Government Pleader appearing on behalf of the respondent submitted that based on the report obtained from the Motor Vehicles Inspector and based on the field report, since it was found that the served sector exceeds the norms and hence the Regional Transport Authority has correctly rejected the request. Admittedly, as per G.O.Ms.No.1540, Home (Transport III) Department dated 17.11.1999, the total length of the mini bus route should not exceed 20 kms including 4 kms



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on the overlapping 200 meters in served sector. Further, as per the above G.O., and ruling of this Court, the served sector should not exceed 4 kms and requested to dismiss the Revision. In support of said cotentions, relied on the following Judgments:-

(i) Judgment of the Hon'ble Supreme Court reported in (2015) 7 SCC 690 [Zuari Cement Limited Vs. Regional Director, Employees state insurance corporation & Others]

(ii) Judgment of the Hon'ble Supreme Court in Civil Appeal No.4480 of 1998 [G.T.Venkataswamy Reddy Vs. State Transport Authority & Ors.]

(ii) Judgment of the Hon'ble Supreme Court reported in 2019 SCC Online Mad 37908 [N.Saraswathi Vs. Regional Transport Authority]

(iii) Judgment of this Court reported in W.A.222 of 2017 [M.Ananda Kumar Vs. The Regional Transport Authority, Krishnagiri].

7. Lastly, the learned Special Government pleader appearing for the respondent contended that the Government of Tamilnadu at present has stopped issuing fresh licence / permit to the mini bus and if the petitioner's prayer is directed to be considered, the same will amount to issuance of fresh license / permit and same cannot be issued as it is not permissible.

8.Heard the learned counsel for the petitioner and the learned Special Government pleader appearing for the respondent and perused the



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documents placed on record.

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9. On going through the documents placed on record, it is seen that the petitioner is the permit holder of Mini bus bearing registration no.TN51/E/9873 plying on the route Lakshmi vilas bank to Kannianatham. The petitioner by way of a representation dated 16.04.2019 requested the respondent to permit the said mini bus inside the Mayiladuthurai Municipal bus stand on ground that due to the usage of excess of passengers in the bus stop at Lakshmi vilas bank, there is no sufficient space for the petitioner to stop the mini bus thereby causing huge hindrance to the passengers to ingress and egress. However, it could be seen that the erst while owners of the minibus have not requested the authorities for such permission and the petitioner alone, that too after 19 years from the date of permission, has requested the authorities. The Motor Vehicle Inspector Grade I, Mayiladuthurai on 26.06.2019 by verifying the route of the mini bus has submitted a detailed report, in which he has clearly stated that the minibus covers the area of 15.2 Kms, out of which 4.2 kms is an served portion and 11 Kms are unserved portion. Further, the distance from Lakshmi Vilas Bank to Mayiladuthurai bus stand comes around 4.2 Kms served area.

10. It is not in dispute that as per G.O.Ms.No.1540 Home (Transport

<https://www.mhc.tn.gov.in/judis>



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III) Department dated 17.11.1999 and as per Circular No. 90919/E2/2000 dated 29.11.2000 issued by the Commissioner of Traffic Police, Chennai, the served area should be around 4.0Kms only. Since as per the field report submitted by the Motor Vehicle Inspector Grade I, Mayiladuthurai on 26.06.2019 the distance exceeds 4.0 kms, the authority has rightly rejected the request of the petitioner.

11. As against the said rejection order, the petitioner has preferred an appeal earlier in M.V.App. No.58 of 2019 and the Tribunal by way of an order dated 23.09.2019 remitted the matter back to the Regional Transport Authority for fresh consideration with a direction to conduct joint inspection on the said route along with the petitioner after affording an opportunity of hearing to the petitioner and if the route including variation sought for is well within 4 kms on the served sector, then the authority should consider and pass necessary orders as per Motor vehicle Act and Rules.

12. Subsequently, Joint inspection was conducted on 16.10.2019 along with the petitioner and again in the report it has been stated that the distance of unserved sector is 11 kms and served sector is 4.2 km after affording opportunity of personal hearing on 13.12.2019. Again the Regional Authority rejected the request on the ground that the served sector exceeds the permitted norms.



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13. At this juncture, it cannot be forgotten that “As per scheme of the Act, the appropriate Government alone could grant or refuse exemption. When the statute prescribed the procedure for grant or refusal of exemption from the operation of the Act, it is to be done in that manner and not in any other manner”, as per decision laid down by the Hon'ble Supreme Court reported in (2015) 7 Supreme Court cases 690 [Zuari Cement Limited Vs. Regional Director, Employees State Insurance Corporation]

14. That apart, this Court in W.P.(MD) No.8832 of 2019 dated 25.11.2019 [N.Saraswathi Vs. Regional Transport Authority, Nagercoil] in Paragraph No.6 and 7 has stated as follows:-

“ 6. It is pertinent to note that between Vadasery Bus stand and Vadasery Anna Stadium there are lot of town buses by Transport Corporation as by private operators, running. The commuters get effective service through the other stage carriage operators. Therefore, extending the route beyond 4 kilometers in the served sector will go against the object of the scheme.

7. Therefore, I am not inclined to extend the route permit beyond the 4 kilometers and the request of the petitioner to enter the bus stand cannot be accepted.”

15. That apart, it is brought to the notice of this Court that the erstwhile owners of the petitioner's minibus have not chosen to seek



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permission for the last 19 years, from the date of issuance of license / permit and now, the Government has also stopped issuing fresh license / permit.

16. Taking note of the Judgment passed by the Hon'ble Supreme Court as well as this Court stated supra and considering the present facts and circumstances of the instant case on hand, this Court is of the opinion that the Regional Transport Officer as well the Chairman, State Transport Appellate Tribunal, not once but twice, that too after inspection and joint inspection by analysing the report as well as field report submitted by the concerned authorities [stating that minibus covers the area of 15.2 Kms, out of which 4.2 kms is an served portion and 11 Kms are unserved portion and the distance from Lakshmi Vilas Bank to Mayiladuthurai bus stand comes around 4.2 Kms served area, which is not as per G.O.Ms.No.1540 Home (Transport III) Department dated 17.11.1999 and as per Circular No. 90919/E2/2000 dated 29.11.2000], has rightly rejected the representation/petition / appeal of the petitioner, which does not require any interference in the hands of this Court.

Accordingly, the present Revision is dismissed and the order passed in M.V.Appl.No.6 of 2020 dated 17.12.2020 is affirmed by this Court for the reasons assigned in this petition. Consequently, connected miscellaneous



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petitions are closed. No costs.

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Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
ssd

V.BHAVANI SUBBAROYAN J.

ssd

To
The Regional Transport Authority,
cum – District Collector,
Nagapattinam

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