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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.4234 of 2023
and W.M.P No.4274 of 2023

Mr.Vengadessaperumal

Petitioner

vs.

The Deputy Transport Commissioner
cum Deputy Secretary,
State Transport Authority,
Puducherry.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in Notice No.6761/TD/RTO (HQ)/2022 dated 03.01.2023 directing the petitioner who is the holder of Contract Carriages (Vikram Tempo) permit to submit their original records i.e. Registration Certificate and Permits (A and B) to the concerned RTOs-Cum-Assistant Secretary (STA) for making fresh endorsement against column against “Route/Area for which permit is valid” by mentioning the route instead of the existing endorsement “All the motorable roads of UT of Puducherry” and to quash the same and further direct the respondents to permit the petitioner to ply on all motorable roads of U.T of Puducherry as endorsed in his permit at the time of renewal or in the alternative to permit the petitioner to ply on

the route “Ayyankuttipalayam to Raja Theatre” via. New Bus Stand etc., places.



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For Petitioner : Mrs.S.Radha Gopalan

For Respondent : Mr.M.Nirmal Kumar
Government Advocate (Puducherry)

ORDER

This writ petition has been filed assailing the impugned proceedings of the respondent in Notice No.6761/TD/RTO (HQ)/2022 dated 03.01.2023 directing the petitioner and others who are the holder of Contract Carriages permit (Vikram Tempo) to submit their original Registration Certificate and permits to the concerned RTOs-cum-Assistant Secretary (STA) for making a fresh endorsement by mentioning the specific route instead of the existing endorsement which permitted the petitioner and others to ply in all the motorable roads of Union Territory of Puducherry.

2.The case of the petitioner is that he is a Vikram Tempo Operator operating his vehicle with a permit which permits the petitioner to ply on all motorable roads in the Union Territory of Puducherry. The predecessor of the petitioner was granted the Contract Carriage permit to ply on the route from Bus Stand to Gorimedu. However, subsequently, when the renewal was made in the year 2017, permission was granted to ply in all motorable roads of Union Territory of Puducherry and this renewal continued till May 2022. Thereafter, once again the renewal was granted by the respondent to the petitioner for the period from May 2022 to May 2027 permitting the petitioner to ply his vehicle in all motorable roads in the Union Territory of Puducherry.



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3.The grievance of the petitioner is that the respondent proceeded to issue the impugned notice dated 03.01.2023 directing all the Contract Carriages Permit holders to resubmit their original records in order to alter the route and restrict the route in which the vehicle can be plied instead of permitting the vehicle to ply in all the motorable roads of Union Territory of Puducherry. Aggrieved by the same, the present writ petition has been filed before this Court.

4.The respondent has filed a counter affidavit. The main stand that has been taken by the respondent is that the original permit was granted only for a specific route from New Bus Stand to Gorimedu (via) Raja Theatre and this permit was renewed from time to time. Such renewal cannot be taken to be a new permit and the routes specified in the original permit will continue unless a specific order is passed and the same is changed. Therefore, according to the respondent, it was a mistake that had crept in at the time of renewal of the permit which was sought to be rectified by issuing the impugned notice dated 03.02.2023. That apart, the respondent has also placed reliance upon Section 74 of the Motor Vehicles Act, which gives unrestricted power to the respondent to specify the area or specify the routes for which the permit is granted. Further stand that has been taken in the counter affidavit is to the effect that an Association named Bharatha Matha Vikram Tempo Urimaiyalar Nala Sangham approached this Court and filed writ petition in W.P.No.1147 of 2023



seeking for a direction to review the renewal of Contract Carriages permits given to the owners, since 2022 and to cancel the same insofar as it permits the vehicles to ply in all motorable roads in the Union Territory of Puducherry. This writ petition was finally heard on 01.02.2023 and after considering the grievance of the petitioner Association and the counter affidavit filed by the Commissioner, Regional Transport Office, Puducherry, the following order was passed:

2. Counter affidavit has been filed by the respondent wherein the respondent while admitting that contract carriage permit was restricted only certain areas, it is stated that while renewing contract carriage permit, due to technical snag in the "VAHAN" software, introduced by the Government of India, which automatically generates the expression "all the motorable roads of UT of Puducherry" instead of specifically stating the routes in which the owners of vehicles are originally permitted to ply their vehicles. After realising the mistake in the software, the respondent issued notice dated 3.1.2023 directing the permit holders to produce original permits to manually rectify their mistakes and notice has also been issued in this regard. Out of 126 permit holders, 62 permits have been manually rectified and 6 permits are under process of rectification, notice sent to 42 permit holders were returned unserved and rest of them who have not responded to the notice, they are taking steps to serve the notice on them and take follow up action.



the above order, out of 126 tempo permit holders, 81 vehicle owners have produced their original permits and the mistakes have been rectified by specifying the route in which the vehicles can ply. With respect to the petitioner, it has been stated in the counter affidavit that he was called for a personal hearing and the representation made by the petitioner was considered and the request made by the petitioner to continue with the same route as specified in the permit which was renewed was not acceded to. Therefore, the respondent has justified in the counter affidavit for taking steps to rectify the mistake and the petitioner cannot claim any exemption in this regard and that he has to fall in line with the other permit holders, who have already submitted their records and got it rectified. Accordingly, the respondent has sought for the dismissal of this writ petition.

6. Heard Mrs.R.Radha Gopalan, learned counsel appearing on behalf of the petitioner and Mr.M.Nirmalkumar, learned Government Advocate (Puducherry) appearing on behalf of the respondent.

7. The original permit that was issued to the predecessor of the petitioner shows that the permit was given to a specific route to ply the vehicle between the New Bus Stand to Gorimedu (via) Raja Theatre. Thereafter, the permit changed hands and ultimately, the petitioner became the transferee for the Contract Carriage permit. When the petitioner applied for the renewal of the permit, the permit was



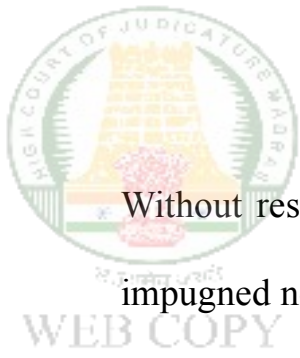
renewed for the period from 07.05.2017 to 06.05.2022. When this renewal was made, it was specifically stated in the permit that the petitioner can ply the vehicle in all motorable roads in the Union Territory of Puducherry. It is also clear from the reply that was given to Right to Information Act application in the year 2015 that insofar as the three wheeler tempo permits are concerned, the permit is given to ply the vehicles in all motorable roads in the Union Territory of Puducherry. Even the subsequent renewal applied by the petitioner was granted and on going through the permit, it can be seen that the validity of the permit was from 07.05.2022 to 06.05.2027 and the petitioner has been permitted to ply the vehicle in all the motorable roads in the Union Territory of Puducherry. It is under these circumstances, the impugned notice dated 03.01.2023 came to be issued by the respondent. The respondent has mentioned in the impugned notice that there was a mistake while specifying the route details and instead of specifying the route, it has been mentioned as all motorable roads of Union Territory of Puducherry. By virtue of the impugned notice, this mistake was sought to be rectified.

8. In the considered view of this Court, the reason that was assigned in the impugned notice dated 03.01.2023 as if there was a mistake and it is sought to be rectified by calling for the original records from the permit holder, does not really convince this Court. If there was really a mistake, it is quite curious that the renewal was happening at least from 2015 onwards wherein, the route was specified as all



motorable roads in the Union Territory of Puducherry. By virtue of these permits, the vehicles had also plied on all the motorable roads in the Union Territory of Puducherry. If really there was a mistake, atleast at the time of renewal in the year 2022, the respondent ought to have woken up and specified the route for which the renewal of permit is granted. Even that has not been done and the renewal has been granted till the year 2027 by specifying that the vehicle can ply in all motorable roads in the Union Territory of Puducherry. It is very hard to believe that a mistake is sought to be rectified through the impugned notice dated 03.01.2023, since the so-called mistake has been permitted to be continued by the respondent atleast for a period of 7 to 8 years. A mistake can be rectified if it had been taken place during the recent past and it is brought to the notice of the authority. Whereas, in the present case, the status that is continuing nearly for eight years is sought to be reversed by means of rectification of a mistake. Such a decision taken by the respondent virtually takes away vested right of Contract Carriage Permit holder.

9. There is no dispute with regard to the power and jurisdiction of the respondent to specify the area or specify the routes in which vehicles can ply at the time of issuing the permit. The discretion is given to the authority under Section 74(2)(i) of the Motor Vehicles Act, 1988. Therefore, if really the respondent wants to restrict the route or the area, it will always be left open to the respondent to exercise such power by putting the petitioner on notice and take a decision accordingly.



Without resorting to this procedure, the respondent cannot be allowed to issue the impugned notice and alter the permit in the guise of “rectification of a mistake”.

10. The learned counsel for the petitioner submitted that even if the respondent wants to restrict the permit for a particular route, a direction must be given to the respondent to consider the request that has been made by the petitioner wherein, the petitioner has sought for a particular route for which he wants the permit to be given in his favour (Iyampattipalayam to Raja theatre). As and when the respondent issues the notice to the petitioner and calls for an enquiry for fixing the area or fixing the routes, it is left open to the petitioner to make a request to the respondent by specifying the above route that was suggested by the petitioner even in the earlier representation and it is left open to the respondent to consider the same and take a decision in accordance with law. Till such a decision is taken, the petitioner will be entitled to ply his vehicle in accordance with the renewal permit that was granted to the petitioner on 12.04.2022.

11. Just because the other permit holders have fallen in line and submitted their original records for rectification, that does not mean that the petitioner must also concede his right. If the petitioner has a genuine grievance to challenge the impugned notice issued by the respondent, his right cannot be taken away just because a majority of the permit holders have complied with the direction issued by



the respondent in the impugned notice.

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12.The impugned Notice No.6761/TD/RTO (HQ)/2022 dated 03.01.2023 issued by the respondent will stand quashed insofar as the petitioner is concerned. It is made very clear that for all those persons, who have already approached the respondent and had got their permits manually rectified, it will not be open to those persons to take advantage of this order and knock the doors orders of this Court. Since the petitioner alone had questioned the impugned notice, the relief that has been granted by this Court will confine itself only to the petitioner.

13.In the result, this writ petition is allowed in the above terms. No Costs. Consequently, connected miscellaneous petition is closed.

17.04.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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N. ANAND VENKATESH, J.

SSR

To

The Deputy Transport Commissioner
cum Deputy Secretary,
State Transport Authority,
Puducherry.

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