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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.13417 of 2023
and WMP No.13093 of 2023

The General Manager,
Tamil Nadu State Transport
Corporation (Coimbatore) Limited,
Coimbatore - 641 043

Petitioner

vs.

1. T.Mahalingam,
Prop. Velmurugan Bus Service,
100, Palladam Road,
Pollachi, Coimbatore District - 642 002.

2. The Presiding Officer,
State Transport Appellate Tribunal,
Chennai

3. The Regional Transport Officer,
Pollachi Region,
Coimbatore District

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to M.V.Appeal No.13 of 2022 dated 16.08.2022 dated 16.08.2022 on the file of 2nd respondent Presiding Officer, State Transport Appellate Tribunal, Chennai.



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For Petitioner : Mr.M.Murali Vinodh
For Respondents : Mr.Hari Krishnan for R1
Mrs.S.Mythreye Chandru
Special Government Pleader
for R3

ORDER

This writ petition has been filed by the Tamil Nadu State Transport Corporation challenging the order passed by the State Transport Appellate Tribunal, Chennai in M.V Appeal No.13 of 2022 dated 16.08.2022.

2. Heard Mr.M.Murali Vinodh, learned counsel for petitioner and Mr.Hari Krishnan, learned counsel for 1st respondent and Mrs.S.Mythreye Chandru, learned Special Government Pleader for R3.

3. The order passed in WP No.2123 of 2019 was brought to the notice of this Court and for proper appreciation, the relevant portions are extracted hereunder :-



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2. *The order challenged in the Writ Petition has been passed by the State Transport Appellate Tribunal consisting of a judicial officer in the rank of District Judge under Section 89(2) of the Motor Vehicles Act, 1988. The Hon-ble Supreme Court of India in Life Insurance Corporation of India ~vs~ Nandhini J. Shah [(2018) 15 SCC 356] has held that such judicial order would not be amenable to Writ of Certiorari under Article 226 of the Constitution of India, but the same could be impeached in proceedings under Article 227 of the Constitution of India before the Jurisdictional High Court.*

3. *In view of the aforesaid legal position, Registry is directed to de~register the Writ Petition and return the papers to Learned Counsel for the Petitioner so as to enable him to re~submit the same as Civil Revision Petition under Article 227 of the Constitution of India with necessary requirements as per the rules within a period of 15 days from the date of collecting papers from the Registry.*

4. *It is clear from the above order that relying upon the*



judgment of the Apex Court, this Court has held that a writ petition under Article 226 of the Constitution of India is not maintainable as against the order passed by the Tribunal which is manned by a Judicial Officer in the Rank of a District Judge. The above order will squarely apply to the facts of the present case and as a result, this writ petition must be dismissed as not maintainable. If at all, the petitioner wants to challenge the order passed by the Tribunal, it is left open to the petitioner to question the same by filing a Civil Revision Petition under Section 227 of the Constitution of India. The order was passed by the Tribunal on 16.08.2022 and hence, if the petitioner is advised to file a Civil Revision Petition, the same shall be filed within a period of 15 days from today.

5. This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

02.06.2023

Index : Yes/No

Internet : Yes/No



Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

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Note : Issue order on 08.06.2023

To

1. The Presiding Officer,
State Transport Appellate Tribunal,
Chennai
2. The Regional Transport Officer,
Pollachi Region,
Coimbatore District



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N. ANAND VENKATESH, J.

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