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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.16847 of 2023
and W.M.P No.16097 of 2023

Mr.Aravamuthan

Petitioner

vs.

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

2.The Inspector of Police,
Mettupalayam Police Station,
Puducherry.

Respondents

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 1st 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 1st respondent 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.



For Petitioner : Mr.S.Radha Gopalan

For Respondents : Mr.A.Tamilvanan
Additional Government Pleader
(Puducherry)

ORDER

This writ petition was filed challenging the notice issued by the 1st respondent dated 03.01.2023 directing the petitioner to submit the original records to make an endorsement as if the permit is valid only for a particular route/area and for a consequential direction to the 1st respondent to permit the petitioner to ply on all motorable roads of Union Territory of Puducherry as per the permit that was already issued to the petitioner at the time of renewal.

2.The petitioner has also sought for a direction to the respondents to release the vehicle that was impounded and is now in the custody of the 2nd respondent.

3.When the matter came up for admission on 07.06.2023, this Court passed the following order:

*Mr.A.Tamilvanan, learned Additional Government
Pleader (P), takes notice on behalf of respondents.*



2. The issue involved in this writ petition is squarely covered by the earlier order passed by this Court in W.P.No.4234 of 2023 dated 17.04.2023.

3. Learned Additional Government Pleader appearing on behalf of respondents wants to take written instructions from the first respondent and submit the same before this Court.

Post this writ petition under the caption 'for orders' on 14.06.2023.

4. When the matter was taken up for hearing today, the learned Additional Government Pleader produced the written instructions received from the 1st respondent.

5. Heard Mr.S.Radha Gopalan, learned counsel appearing on behalf of the petitioner and Mr.A.Tamilvanan, learned Additional Government Pleader appearing on behalf of the respondents.

6. The main relief that has been sought for by the petitioner is squarely covered by the earlier order passed by this Court in W.P.No.4234 of 2023, dated 17.04.2023.

For proper appreciation, the relevant portions in the order are extracted hereunder:



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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.



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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.

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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



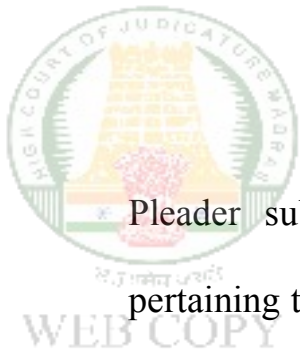
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respondent to consider the same and take a decision in accordance with law. Till such a decision is taken, the petitioner will be entitled to ply his vehicle in accordance with the renewal permit that was granted to the petitioner on 12.04.2022.

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.

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.

7. The present writ petition can also be disposed of in terms of the above order.



Pleader submitted that the petitioner has to produce the original documents pertaining to the vehicle before the Regional Transport Officer, Puducherry and only on production of those documents, the vehicle that has been impounded will be released.

8.The learned counsel for the petitioner submitted that the petitioner was apprehensive in producing the documents before the Regional Transport Officer since there was every chance that an endorsement will be made in those documents by mentioning that the petitioner can ply the vehicle only in the route/area that is assigned by the authority. Whereas, the permit that was already granted to the petitioner at the time of renewal enabled the petitioner to ply on all the motorable roads. The learned counsel submitted that since the main relief sought for by the petitioner is now covered by the earlier order passed by this Court and this writ petition will also be dealt with in the same manner, the petitioner is willing to produce the original documents before the Regional Transport Officer and that the Regional Transport Officer may be directed to release the vehicle on production of such documents.

9.In the considered view of this Court, this writ petition is squarely covered by the earlier order passed in W.P.No.4234 of 2023 and this writ petition is also disposed of in the same terms. Insofar as the release is concerned, the petitioner shall



produce all the original documents before the Regional Transport Officer, Puducherry and if any penalty has to be paid, the same shall also be paid and thereafter, the vehicle shall be released forthwith.

10. This writ petition is disposed of in the above terms. No Costs. Consequently, connected miscellaneous petition is closed.

14.06.2023
(2/2)

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr

Note: Issue Order Copy on 19.06.2023

To

1. The Deputy Transport Commissioner-cum-Deputy Secretary,
State Transport Authority,
Puducherry.
2. The Inspector of Police,
Mettupalayam Police Station,
Puducherry.



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N. ANAND VENKATESH, J.

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