



WEB COPY



WMP No.24009 of 2023

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in

WP No.23604 of 2021

THE HON'BLE CHIEF JUSTICE
and
P.D.AUDIKESAVALU, J.

(Order of the Court was made by the Hon'ble Chief Justice)

The present application is filed for recall of the order dated 08.11.2021 in WP No.23604 of 2021.

2. Mr.P.S.Raman, learned Senior Counsel for the applicant, submits that the present applicant was the fifth respondent in the writ petition. No notice was issued to the fifth respondent before passing the order under review. The applicant has no objection with regard to the paragraphs 1 to 5 of the order. However, paragraph 6 of the order restrains the present applicant from undertaking transportation activity at night. The learned Senior Counsel submits that before passing the order under review, the present applicant was already restrained from transporting limestone from 7 a.m. to 10 a.m. and 3 p.m. to 5.30 p.m. This was not brought to the notice of the Court when the order under review was passed. In fact, now the applicant would hardly get any time for transportation.



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3. Mr.Muthupandi, learned counsel for the non-applicant/ original writ petitioner submits that the order passed by this court on 08.11.2021 was immediately communicated to the present applicant. The present applicant was not aggrieved by the said order for all these years, and now, only because the authority has passed the order prohibiting him from transporting between 6 p.m. and 6 a.m., has moved this court. The authority has properly followed the order passed by this court.

4. We have also heard Mr.P.Muthukumar, learned State Government Pleader, for respondents 2 to 5.

5. Today, we are only concerned with the order passed by this court on 08.11.2021 in WP No.23604 of 2021.

6. Admittedly, the aforesaid order was passed without issuing notice to the applicant. The applicant was not heard when the order impugned was passed. In paragraph 6, this court had directed the third respondent to instruct the fifth respondent to ensure that the transportation activities are undertaken within a regulated time and they are not undertaken at night.



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7. The authorities are bound by the order passed by this court. They cannot pass an order contrary to the order passed by this court.

8. However, it was not brought to the notice of this court while order dated 08.11.2021 was passed that the present applicant/original respondent No.5 was already prohibited from transporting limestone from 7 a.m. to 10 a.m. and 3 p.m. to 5.30 p.m. and now, in view of the order dated 08.11.2021 passed by this court, the authority has restrained the applicant from transporting from 6 p.m. to 6 a.m.

9. Considering the fact that the order under review was passed without hearing the applicant, we recall the order dated 08.11.2021 and place WP No.23604 of 2021 for fresh hearing. The application is accordingly allowed.

10. Place WP No.23604 of 2021 for admission on 25.09.2023.

(S.V.G., CJ.)

(P.D.A., J.)

04.09.2023

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