



W.P.(MD)No.18556 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.18556 of 2023
and
W.M.P.(MD)No.15388 of 2023

P.R.Earneust Raja

... Petitioner

VS.

1.The Transport Commissioner,
Chepauk, Chennai-1.

2.The District Collector cum
Regional Transport Authority,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order in Proc No.24528/HA2/2023, dated 20.07.2023, on



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the file of the 1st respondent and to quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.C.Baskaran
Government Advocate

ORDER

This writ petition is filed for issuance of a writ of Certiorari, to call for the records relating to the impugned order, dated 20.07.2023, on the file of the 1st respondent and to quash the same.

2. The contention of the petitioner is that he is a business man involved in transport business and is the owner of four 16-wheeled trucks. The petitioner's vehicle is used to carry minerals and transport



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from Kanyakumari District to the nearby State Kerala. Through the impugned order, it is restricted that the mineral laden heavy vehicles not exceeding 10 wheels and the vehicle shall not exceed 28,000 kg of minerals. In other words, if the vehicles carrying more than 28,000 kg and if it has more than 10 wheels, the truck will not be allowed.

3. The contention of the petitioner is that it is just a concurrence issued by the Transport Commissioner, Chennai and the consequential order is not passed. Even in the impugned order, it is stated that

“Based on the concurrence given as above the Regional Transport Authority can pass appropriate orders”.

As on date, the concerned authority namely the Regional Transport Authority has not passed any consequential orders. Before passing any



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order, the petitioner cannot be restricted and the petitioner's vehicle cannot be stopped by the authorities.

4. However, the learned Additional Advocate General appearing for the respondents submitted that the impugned order came to be passed based on the representation of the Association. Also, the impugned order was passed by taking the data into consideration. According to the respondents, these heavy vehicles are damaging the roads as well as causing accidents. For the past one year, more than 350 accidents have occurred due to heavy vehicles. The respondents are empowered to control the traffic and this is one such measure.

5. After hearing the rival submissions of both sides, this Court is of the considered opinion that the impugned order is a policy decision so it



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cannot be interfered with. However, through the impugned order the Transport Commissioner had given his concurrence alone. The Regional Transport Authority has not passed any orders and the respondents also admitted that the Regional Transport Authority has not passed any orders. Therefore, before passing any order by the Regional Transport Authority, the respondents cannot stop the petitioner's vehicle. Since as on date, the Regional Transport Authority has not passed any consequential order based on the concurrence of the Transport Commissioner, the petitioner's right is curtailed without any order. Therefore, the respondents are directed to release the vehicle of the petitioner.

6. The respondents shall implement the order of the Regional



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Transport Authority based on the concurrence of the Transport Commissioner, after giving some space and time for compliance. Till such time the respondents shall not restrain from plying the vehicle.

7. With the above said observation, the writ petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

01.08.2023

Internet : Yes

NCC : Yes / No

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To

- 1.The Transport Commissioner,
Chepauk, Chennai-1.
- 2.The District Collector cum
Regional Transport Authority,
Kanyakumari District.



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S.SRIMATHY, J

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