



W.P.(MD).No.18714 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 02.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.18714 of 2023
and
W.M.P(MD).No.15536 of 2023**

Mohammed Ashraf

... Petitioner

Vs.

- 1.The Additional Chief Secretary,
Government of Tamil Nadu,
Transport Department,
Secretariat,
Chennai – 600 009.
- 2.The Additional Chief Secretary,
Government of Tamil Nadu,
Geology and Mining Department,
Secretariat,
Chennai – 600 009.
- 3.The Transport Commissioner,
Commissionerate of Transport,
Ezhilagam, Chepauk,
Chennai.
- 4.The District Collector,
Kanyakumari District,
Kanyakumari.
- 5.The Superintendent of Police,
Kanyakumari,
Kanyakumari District.



W.P.(MD).No.18714 of 2023

6.The Assistant Director,
Department of Geology and Mining,
Kanyakumari District.

7.The Regional Transport Officer,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the third respondent in Proc No.24528/HA2/2023 dated 20.07.2023 and quash the same as illegal and consequently direct the respondents to permit the petitioner's agreement holders vehicle carrying the minor minerals (Bolders/Rocks etc.,) to Vizhinjam International Deepwater Multipurpose sea Port at Kerala State with gross weight of 49,000 Kg mineral laden vehicles of 16 wheels (6 axle truck) and with gross weight of 35,000 kg mineral laden vehicles of 12 wheels (4 axle truck).

For Petitioner : Mr.R.J.Karthick,

For R-1 to R-4 : Mr.Veera Kathiravan,
R-6 and R-7 Additional Advocate General,
Assisted by,
Mr.R.Suresh Kumar,
Additional Government Pleader.

For R-5 : Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side).



W.P.(MD).No.18714 of 2023

WEB COPY

ORDER

This writ petition is filed to quash the order dated 20.07.2023 with a consequential direction to permit the petitioner's agreement holders vehicle carrying the minor minerals (Bolders/Rocks etc.,) to Vizhinjam International Deepwater Multipurpose sea Port at Kerala State with gross weight of 49,000 Kg mineral laden vehicles of 16 wheels (6 axle truck) and with gross weight of 35,000 kg mineral laden vehicles of 12 wheels (4 axle truck).

2. The contention of the petitioner is that he is a business man involved in transport business and has taken heavy vehicles with 12 wheels and 16 wheels on lease for supply of mining minerals to the needed persons. The petitioner's vehicle is used to carry minerals and transport 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.



W.P.(MD).No.18714 of 2023

WEB COPY

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 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.



W.P.(MD).No.18714 of 2023

WEB COPY

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 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 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. With the above said observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.



W.P.(MD).No.18714 of 2023

WEB COPY

7. The writ petitioner has challenged the impugned order on the question of jurisdiction and power to grant such concurrence. The petitioner also submitted that the Regional Transport Authority also is not having any power to restrain plying trucks above 10 wheels. Since this Court has considered the case for a limited prayer, the question of law raised in this writ petition is left open.

02.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

Note: Issue Order Copy on 02.08.2023.



W.P.(MD).No.18714 of 2023

WEB COPY

To

- 1.The Additional Chief Secretary,
Government of Tamil Nadu,
Transport Department,
Secretariat,
Chennai – 600 009.
- 2.The Additional Chief Secretary,
Government of Tamil Nadu,
Geology and Mining Department,
Secretariat,
Chennai – 600 009.
- 3.The Transport Commissioner,
Commissionerate of Transport,
Ezhilagam, Chepauk,
Chennai.
- 4.The District Collector,
Kanyakumari District,
Kanyakumari.
- 5.The Superintendent of Police,
Kanyakumari,
Kanyakumari District.
- 6.The Assistant Director,
Department of Geology and Mining,
Kanyakumari District.
- 7.The Regional Transport Officer,
Kanyakumari District.



WEB COPY



W.P.(MD).No.18714 of 2023

S.SRIMATHY, J.

Nsr

W.P.(MD).No.18714 of 2023

02.08.2023