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W.P.(MD)NO.10902 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10902 of 2015 AND
M.P.(MD)Nos.1,2 & 4 of 2015 &
W.M.P.(MD)No.2127 of 2016

Tuticorin Lorry Owners Association,
Rep. by P.Thathasamy,
its Secretary,
114-B, Ettayapuram Road,
Polepettai,
Tuticorin – 628 002.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Home (Tr.VII) Department,
Fort St. George,
Chennai.
2. The Regional Transport Authority,
Tuticorin,
Tuticorin District.
3. The Regional Transport Officer,
Tuticorin,
Tuticorin District.
4. The Superintendent of Police,
Tuticorin District,
Tuticorin.



5. The Inspector of Police,
Thermal Nagar police station,
Tuticorin.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the impugned G.O.Ms.No.849, Home (Tr. VII) Department dated 13.12.2011 is null and void and consequently restrain the 5th respondent police from collecting the spot fine from the members of association.

For Petitioner : Ms.U.Maheshwari

For Respondents : Mr.N.Satheesh Kumar,
Additional Government Pleader.

* * *

ORDER

None appears for the petitioner.

2. Heard the learned Additional Government Pleader appearing for the respondents.

3. The petitioner is an association. It challenges the impugned G.O.Ms.No.849, Home (Tr. VII) Department dated 13.12.2011. The said G.O. was put to challenge in W.P.(MD)



No.7060 of 2017 etc. Vide order dated 16.02.2021, except serial No.30 in all other respects, the G.O. was sustained. It reads as follows:-

“ 5.The counter affidavit filed on behalf of the Government does not deal with this contention at all. A feeble submission was made that the writ petition deserves to be dismissed since the challenge has been mounted after a gap of three years. The said Government Order was issued in December 2011 whereas the writ petition was filed only in February, 2015. When the validity of the Government Order or statute is questioned, laches can never be a reply or defence. The authority of the government to issue the G.O in question in respect of the offence under Section 192 A has been raised. There is no answer. Therefore, the order impugned in this writ petition is set aside insofar as Serial No.30 in the annexure including Section 192-A(1) is concerned. In all other respects, the impugned G.O is sustained.

6.This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.



4. This writ petition is disposed of on the same lines. No costs. Consequently, connected miscellaneous petitions are closed.

06.07.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The Principal Secretary,
Home (Tr.VII) Department,
Fort St. George,
Chennai.
2. The Regional Transport Authority,
Tuticorin,
Tuticorin District.
3. The Regional Transport Officer,
Tuticorin,
Tuticorin District.
4. The Superintendent of Police,
Tuticorin District,
Tuticorin.
5. The Inspector of Police,
Thermal Nagar police station,
Tuticorin.



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G.R.SWAMINATHAN,J.

PMU

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