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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

CONT.P.(MD)No.1565 of 2022
and
SUB.A.(MD)No.123 of 2022

R.Karthickraja ... Petitioner

-Vs-

Mr.V.S.Ganesh,
Regional Transport Officer,
Regional Transport Office,
Pirattiyur, Trichy (West), Trichy. ... Contemnor

PRAYER : Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the contemnor for the willful disobedience of the order of this Court made in W.A.(MD)No.520 of 2022 dated 23.08.2022.

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For Petitioner : Mr.M.Palani

For Respondent : Mr.R.Baskaran,
Additional Advocate General
assisted by Mr.B.Saravanan,
Additional Government Pleader

For Writ Petitioner : Mr.Radha Gopalan,
(A.Swamiappan) Senior Counsel

ORDER

[Order of the Court was made by R.SURESHKUMAR, J.]

Alleging non-compliance of the order passed by this Court in W.A.(MD)No.520 of 2022 dated 23.08.2022, this Contempt Petition is filed.

2.When this Contempt Petition was pending before this Court, the respondent Transport Authority had passed an order on 10.02.2023. On considering the said order dated 10.02.2023 as well as dated 13.04.2023, we were inclined to give the following directions by our order dated 18.04.2023:-

"8. In view of the above, the following orders are passed:-

(i) that the orders dated 10.02.2023 and 13.02.2023 shall be

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kept in abeyance for a period of two weeks. In the meanwhile, the respondent i.e., Regional Transport Officer, Trichy is hereby directed to have a time slot meeting on 21.04.2023 at 3.00 p.m. at the Office of the Regional Transport Officer, Trichy, for which notice need not be given separately except to the Transport Corporation as the counsel appearing for both R.Karthickraja and A.Swamiappan are aware of such time for meeting and on the said date and time, both A.Swamiappan as well as R.Karthickraja through their counsel representing them shall appear before the Regional Transport Officer and put forth their case both orally as well as by way of written submission.

(ii) The learned Additional Advocate General has stated before this Court that this development would be communicated to the Tamil Nadu State Transport Corporation, Tiruchirappalli enabling them to appear before the Regional Transport Officer on the said date of meeting and in this context communication shall be immediately sent or notice should be sent by the Regional Transport Officer to the concerned officer of the Transport Corporation at Trichy to appear for the said meeting and such an opportunity shall also be given to the Transport Corporation.

(iii) After hearing all the three parties, the respondent Regional Transport Officer shall evaluate the comparative merit of the issue and pass a comprehensive order, fixing the time slot

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for the said A.Swamiappan and orders shall be passed thereon within a period of three days thereafter and file the same before this Court during the next hearing date.

(iv) It is made clear that since strict time bound order is passed fixing a time limit for completing the task as indicated above, neither party shall seek for any adjournment for the hearing, which has already been fixed to be held on 21.04.2023.

(v) Whatever the issue to be raised by the parties on the said hearing date shall be decided on merits and comprehensive order shall be passed on all those issues.

(vi) Mr.V.Ganesh, Regional Transport Officer, Trichy (West), the respondent, pursuant to the earlier order is present before this Court, his presence is noted and his future presence for the time being is dispensed with.

9. Post the matter on 27.04.2023."

3.Pursuant to those directions, a meeting was conducted by the respondent by giving opportunity to all the parties on 21.04.2023. On that date, the respective parties appeared before the respondent and put forth their case.

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4.Having considered the case projected by both sides, the respondent has passed an order dated 26.04.2023 in R.No.12066/A2/2022, where *inter alia,* the respondent has directed the party, namely, A.Swamiappan to stick on with his timing as 3.55 p.m., and by thus not operating at 3.14 p.m., hitherto as has been undertaken.

5.The said order has been produced by the learned Additional Advocate General for the respondent, which we have perused. On perusal of the copy of the said order, the learned Senior Counsel appearing for the said A.Swamiappan has stated that since the said A.Swamiappan is aggrieved over the order dated 26.04.2023, he wants to prefer an appeal before the Tribunal, for which he seeks reasonable a week to 10 days time. Therefore, till the said period, enabling the said A.Swamiappan to prefer an appeal against the order dated 26.04.2023, the order shall be kept in abeyance or that shall not be acted upon.

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6.However, the said request made on behalf of the said A.Swamiappan by the learned Senior Counsel has been stoutly opposed by the learned counsel for the contempt petitioner, who would submit that since as per the directions given by this Court by order dated 18.04.2023 a comprehensive order has been passed by the respondent, that has become final. However, it is open to the said A.Swamiappan to prefer an appeal and till he prefers an appeal, the order shall not be kept in abeyance or no such indulgence can be shown by this Court by passing further directions in the contempt jurisdiction. Therefore, that kind of plea raised by the learned Senior Counsel for A.Swamiappan is to be rejected, he contended.

7.We have considered the said rival submissions made by both sides and perused the order dated 26.04.2023.

8.As directed by this Court by order dated 18.04.2023, the respondent, after having given reasonable opportunity of being heard to both parties,

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including the State Transport Corporation, has passed a detailed order dated 26.04.2023.

9.If the said A.Swamiappan is aggrieved by the said order, it is open to him to make an appeal, for which a reasonable time, according to the learned Senior Counsel, may be given between one week and 10 days. Till such time, *status-quo,* which is being maintained by the said A.Swamiappan by plying the bus at 3.14 p.m., shall not be disturbed.

10.We have considered the said plea as to whether the said A.Swamiappan is entitled to maintain the timing at 3.14 p.m., in stead of 3.55 p.m., has been resolved by the order dated 26.04.2023, of course, subject to the appeal to be preferred by him, but the fact remains that even as per the admitted case of the contempt petitioner that the said A.Swamiappan has been plying the bus at 3.14 p.m., for several years. If that being so, the said pattern if at all to be changed by the order of the respondent dated 26.04.2023, that can be changed provided if an appeal remedy is available that has to be filed by the aggrieved

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party, for which as stated by the learned Senior Counsel, some reasonable time is required. Hence, we feel that one week time till 05.05.2023 can be granted for the said A.Swamiappan to prefer an appeal before the appellate forum, where it is open to the appellant to seek for any interim remedy as against the order dated 26.04.2023. Therefore, till such time, ie., 05.05.2023, the order dated 26.04.2023 passed by the respondent shall not be given effect to. From 06.05.2023, it is open to the respondent to give effect to the order dated 26.04.2023, subject to any interim order to be passed in this regard by the appellate forum.

11.With these directions and observations, this Contempt Petition is closed. Consequently, the connected Sub Application is also closed.

[R.S.K., J.] & [S.S.Y., J.]
27.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Note: Issue Order copy by today (27.04.2023) itself.

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To

Mr.V.S.Ganesh,
Regional Transport Officer,
Regional Transport Office,
Pirattiyur, Trichy (West), Trichy.

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S.SRIMATHY, J.

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