



W.A.Nos.50 of 2013 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2024

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.A.Nos.50 to 58 of 2013 and
W.P.No.11731 of 2013 and W.P.No.30536 of 2015 and
M.P.No.1, 1, 1, 1, 1, 1, 1, 1 and 1 of 2013,
M.P.Nos.2 of 2013 and 1 of 2015

W.A.No.50 of 2013:

Om Sri Vivekananda Educational Trust,
rep. By its Authorized Signatory,
Attur Main Road, Ramalingapuram,
Salem 636 106.

... Appellant

Vs.

- 1.National Highways Authority of India,
rep. By its Chairman,
G 5&6, Sector-10,
Dwarka, New Delhi 110 075.
- 2.The Project Director,
National Highways Authority of India,
212-3/D3-1, Sri Nagar Colony,
Narasothipatti, Salem 636 004.
- 3.M.V.R. Infrastructure and Toll Ways Pvt. Ltd.,
M.V.R. Toll Plaza,
Kottagoundampatty,
Omalur Taluk,
Salem District 636 011.



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4.Salem Tollways Limited,
Vaikuntham Post,
Valakkuttai, Sankari Taluk,
Salem District 637 103.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying to set aside the order dated 14.12.2012 made in W.P.No.30127 of 2012.

For Appellant : Mr.Kandhan Duraisami

For Respondents : Mr.Su.Srinivasan for R1 and R2
: Mr.J.Kannan for R3
: Mr.P.J.Sriganesh for R4

COMMON JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

Since the writ appeals as well as the writ petitions in this batch of cases relates to a same issue and in fact the writ appeals have been filed challenging the order passed by the Single Judges through separate orders on the same issue, for which the writ petitions had been filed, which had been tagged along with the writ appeals. With the consent of the learned counsel appearing for both sides, these writ appeals and writ petitions were heard together and are disposed of by this common order.



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2. That the appellants are the Educational Institutions that means

Imparting Collegiate Education. The respondent National Highways Authority had issued a Circular giving the right of concession for the School buses run by various Educational Institutions i.e. School buses crossing the toll booths in the concerned area on monthly basis. However, such a concession has not been extended to the buses run by Educational Institutions that means Colleges Imparting Collegiate Education.

3. Therefore, that was questioned in the respective writ petitions as a discrimination between Schools and Colleges, where the respective learned Judges of the Writ Court had not accepted the plea raised by the Colleges who are the writ petitioners and therefore those writ petitions were dismissed, as against which, these appeals were filed. Some writ petitions also since have been filed for the same relief, have been tagged along with these writ appeals. That is how these writ appeals and writ petitions have come up before this Court.

4. Mr.Kandhan Duraisami, learned counsel appearing for the appellant Educational Institutions i.e. Colleges, have fairly submitted that, the similar issue arising out of the same Circular had already been



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considered by a Division Bench of this Court in the matter of *Mahendra College of Engineering, Attur Main Road, Minnampalli, Salem and another Vs. The Government of India, represented by its Secretary, Department of Road Transport and Highways, Ministry of Shipping Road, Transport & Highways, New Delhi in W.A.No.560 of 2014 etc. batch*, by judgment dated 25.04.2014. He has produced the copy of the said common judgment passed by the Division Bench, where the learned Judges have held as follows:

“3.The learned Single Judge after making reliance upon the earlier order passed, covering the very same issue, was pleased to dismiss the writ petitions. Challenging the same, the present writ appeals have been filed.

4.Mr. K.Duraisami, learned Senior Counsel appearing for the appellants submitted that as both the Colleges and Schools are imparting education, the exclusion of Colleges is bad in law. A College will have to be construed as a School and by doing so, the respondent will have to be directed to extend the benefits which has been given to the Schools. Similar issue is pending consideration before the Division Bench. Therefore, the writ appeals will have to be entertained.

5.We do not find any reason to entertain the writ



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appeals. The notification is very clear. When there is no ambiguity in the words/terms used by an authority, then the Court of law shall not venture to interpret the same in a different way. Admittedly, a School is different from a College. A School Student is also different from a College Student. The notification is only a concession given to the School Students. The appellant cannot seek the same as a matter of right. The power of judicial review in such matters is very limited. The learned Single Judge, has taken note of the law governing the issues raised, while passing the impugned order and we find no infirmity in the impugned order. We are, also of the view that the mere pendency of the writ appeal cannot be a ground to entertain a subsequent one.

6. In the result, we do not find any merit. The appeal is dismissed. No costs. The connected miscellaneous petitions are also dismissed.”

5. Therefore it has become clear that, a Coordinate Bench already considered the issue and given a quietus rejecting or repelling the grounds raised by the similarly placed writ appellants in the said batch of cases, therefore this batch of cases also have to face the same fate, accordingly all these appeals have to fail including the writ petitions. Therefore, these writ appeals and writ petitions are deserved to be dismissed accordingly are dismissed. However there shall be no order as to costs. Consequently,



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connected miscellaneous petitions are also dismissed.

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[R.S.K., J.]

[K.B., J.]

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

Sgl

To

1. The Chairman,
National Highways Authority of India,
G 5&6, Sector-10, Dwarka, New Delhi 110 075.
2. The Project Director,
National Highways Authority of India,
212-3/D3-1, Sri Nagar Colony,
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R. SURESH KUMAR, J.
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