



WEB COPY



WP No.28878 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

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Tejaa Shakthi Institute of Technology for Women,  
rep. By its Chairman,  
NH-47, Avinashi Road,  
near Chennai Andavar Koil,  
Karumathampatti,  
Coimbatore 641 659

: Petitioner

versus

1.The Government of Tamil Nadu,  
rep. By its Secretary,  
Home (transport) Department,  
Chennai 600009

2.The Transport Commissioner &  
Road Safety Commissioner  
Chepauk, Chennai 5

3.The Commissioner of Technical Education,  
Chennai 25

4.The Regional Transport Officer (North)  
640/616 KK Block,  
Avinashi road, Khadi Board,  
Kumaran Nagar, Thiruppur 641 063

: Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring that Condition No.9 to Letter No. 31083/H3/2010 dated 03.08.2010 of the Commissioner of Technical Education, Chennai is illegal,, unconstitutional and unenforceable insofar as it relates to the petitioner herein

For Petitioner : Mr.Kandhan Duraisami  
For Respondents : Mr.A.Anandan,  
Government Advocate

**ORDER**

(Made by the Hon'ble Chief Justice)

We have heard Mr.Kandhan Duraisami, learned counsel for the petitioner and Mr.A.Anandan, learned Government Advocate for the respondents.

2. Learned counsel for the petitioner submits that the condition that driver of the school/college bus must have a minimum of ten years of experience of driving heavy vehicles and must not have any previous record of any traffic offence is impossible of performance. It is very difficult to get driver for a school bus having a minimum of ten years of experience of driving heavy vehicles, and a condition impossible of performance cannot be sustained. Learned counsel further submits that the said condition is arbitrary and does not have



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any rational with the object in view.

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3. Learned counsel for the petitioner submits that the Apex Court in the case of ***Common Cause vs. Union of India [2008 (5) SCC 511]***, has observed that the Court cannot issue directions to legislate in a particular manner.

4. It appears that the impugned condition was incorporated pursuant to the judgment of the Apex Court in ***M.C.Mehta vs. Union of India [1997 (8) SCC 770]*** wherein the Apex Court has observed that no bus belonging to or hired by an educational institution shall be driven by a driver who has less than ten years of experience and has been *challaned* more than twice for minor traffic offence.

5. A Division Bench of this Court in ***WP No.47114 of 2002 (M.Chandrasekar vs. Union of India)*** under judgment and order dated 09.10.2007, directed the Government to follow the directions of the Apex Court in ***M.C.Mehta***. It appears that pursuant thereto, the impugned Government Order is passed by the Department of Technical Education.



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6. In the present case, as per the directions of the Apex Court and as directed by this Court, a policy decision has been taken by the State in the interest of students. We do not find any irrationality in the same.

7. In view of the same, the writ petition stands disposed of. There shall be no order as to costs. Consequently, MP No.1 of 2010 is closed.

**(S.V.G., CJ.)**

**(J.S.N.P., J.)**

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Index : Yes/No  
Neutral Citation : Yes/No  
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