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W.P.No.34614 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**Writ Petition No.34614 of 2015
and MP.No.1 of 2015**

Jayalakshmi Institute of Technology
Rep.by its Chairman
Thoppur
Dharmapuri Taluk -636352.

.... Petitioner

-Vs-

- 1.The Government of India
Rep.by its Secretary
Department of Road Transport and Highways
Ministry of Shipping
Road Transport and Highways
New Delhi.
- 2.National Highways Authority of India
Rep. By its Chairman
G-5 & 6, Sector-10
Dwaraka
New Delhi 110075.
- 3.The Project Director
National Highways Authority of India
Project Implementation Unit
VSA Commercial Complex
9-11, Omalur Main Road
Salem 636004.



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4.L&T Krishnagiri Thopur Toll Road Pvt.,Ltd.,
Toll Plaza, NH-7
Palayam Village
Dharmapuri 636807.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration declaring that the benefit of Paragraph 7(b)(ii) of the Notification of the 1st respondent in S.O.145(E), dated 14.01.2009 is available to all the “educational institution buses' more specifically mentioned in the Schedule hereunder as defined in Section 2(11) of the Motor Vehicles Act and not only for 'school buses' and pass such further or other orders.

The Schedule

TN-25/D-1046 TN-21/AA-6539 TN-21/AA-9642
TN-31/AV-2799 TN-32/R-8456 TN-20/AM-6019
TN-29/AM-6027 TN-29/AQ-0965 TN-29/AQ-0981
TN-29/AQ-0984 TN-29/AQ-2054, etc.

For Petitioner : Mr.K. Doraisami
Senior Advocate

For Respondents : Mr.S.Makesh
Standing Counsel
for R1 & R2

Mr.Su.Srinivasan
Standing Counsel for R3



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Mr.Thriyanbak J.Kannan for R4

ORDER

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Writ petition has been filed in the nature of seeking a declaration that the benefit of paragraph 7 (b)(ii) of Notification of the 1st respondent in S.O. 145 (E), dated 14.01.2009 is available to all the 'educational institution buses' more specifically mentioned in the Schedule as defined in Section 2(11) of the Motor Vehicles Act and not only for school buses.

2.In the affidavit filed in support of the writ petition, it had been stated that the word 'School' is used not only to institution offering courses upto Higher Secondary class but also the other educational institutions offering higher education such as Polytechnic Colleges and Universities. It had therefore been stated that when an exemption is granted to buses belonging to Schools the same exemption can also be granted to buses belong to all educational institutions.

3.The writ petitioner, is not a school. The petitioner is an Institute of Technology established and run by a Trust in the rural areas of Dharmapuri. They have buses for transportation of the students. But, they do not tender



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education at the school level. They impart education to students who have completed school study. Therefore, they cannot claim benefit which the buses belonging to schools had been granted.

4.A similar issue came up for consideration before a Division Bench in WA.Nos.50 to 58 of 2013 in Om Sri Vivekananda Educational Trust .vs. National Highways Authority of India and others. The Division Bench, by a common judgment dated 18.01.2024, placed reliance on an earlier order of the Division Bench in ***WA.Nos.560 of 2014 etc. batch, in Mahendra College of Engineering, Attur Main Road, Minnampalli, Salem and Another Vs. The Government of India, rep. By its Secretary, Department of Road Transport and Highways, Ministry of Shipping Road, Transport & Highways, New Delhi***, wherein, by judgment dated 25.04.2014, the following order was passed.

“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



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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 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



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petitions are also dismissed.”

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5.Placing reliance on the order of the said Division Bench, the Division Bench in WA.Nos.50 to 58 of 2013 had also passed a similar order and dismissed the petition also. The said order of the Division Bench is binding on this Court. The learned Senior Counsel states that the said order could accrue to the petitioner herein but however to the disadvantage of the petitioner. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

NCS : Yes/No

KP



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To

- 1.The Secretary
Government of India
Department of Road Transport and Highways
Ministry of Shipping
Road Transport and Highways
New Delhi.
- 2.National Highways Authority of India
Rep. By its Chairman
G-5 & 6, Sector-10
Dwaraka, New Delhi 110075.
- 3.The Project Director
National Highways Authority of India
Project Implementation Unit
VSA Commercial Complex
9-11, Omalur Main Road
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- 4.L&T Krishnagiri Thopur Toll Road Pvt.,Ltd.,
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C.V.KARTHIKEYAN.,J

KP

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