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W.P.No.38464 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.38464 of 2015

and

M.P.No.1 of 2015

J.K.K.Nataraja College of Engineering and Technology,
represented by its Principal,
Natarajapuram, Salem Main Road,
Komarapalayam,
Tiruchengodu Taluk,
Namakkal District.

..Petitioner

-Vs-

- 1.The Government of India,
represented 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,
212-3/D3-1, Sri Nagar Colony,
Narasothipatti,
Salem 636004.
- 4.Kumarapalayam Tollways Limited,



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Kambuliyampatti,
Vijayamangalam Post,
Perundurai Taluk,
Erode District 638056.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Declaration declaring that the benefit of Paragraph 5(b)(ii) of the Notification of the 1st respondent in S.O.475(E), dated 13.02.2009 is available to all the “educational institution bus” of the Petitioner viz., TN-34/W-4280, etc. as defined in Section 2(11) of the Motor Vehicles Act and not only for 'school buses'.

For Petitioner : Mr.Kandhan Duraisamy
For R1 to R3 : Mr.Su.Srinivasan
Standing Counsel.

ORDER

This Writ Petition has been filed for declaration declaring that the benefit of Paragraph 5(b)(ii) of the Notification of the first respondent in S.O.475(E), dated 13.02.2009 is available to all the “educational institution bus” of the petitioner viz., TN-34/W-4280 etc. as defined in Section 2(11) of the Motor Vehicles Act and not only for 'school buses'.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents 1 to 3 and perused the materials available on record.

3. A similar issue was already dealt with by this Court in



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W.P.No.30127 of 2012 and this Court, by an order dated 14.12.2012, dismissed the writ petition. Aggrieved by the same, an appeal was filed before this Court in W.A.No.50 of 2013 etc batch., and the same was also dismissed by an order dated 18.01.2024. The relevant portion of the order is extracted hereunder :

“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 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



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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 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,



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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, connected miscellaneous petitions are also dismissed.”

4. In view of the above, the Writ Petition is liable to be dismissed.

Accordingly, this writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

02.09.2024
(1/2)

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Lpp

To

1. The Secretary,
Government of India,
Department of Road Transport and Highways,
Ministry of Shipping, Road Transport and Highways,
New Delhi.
2. The Chairman,
National Highways Authority of India,
G 5&6, Sector-10,
Dwaraka, New Delhi 110075.
3. The Project Director,
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G.K.ILANTHIRAIYAN. J.

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