



W.P.No.11449 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 30.04.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.11449 of 2024

A.Kumaresan

... Petitioner

-VS-

1.The Secretary to Government of Tamil Nadu
Department of Transport,
Secretariate, Chennai 600 009.

2.The Transport Commissioner,
Commissionerate of Transport and Road Safety
Chennai 600 005.

3.The District Collector,
Chengalpattu District,
Office of District Collector
Chengalpattu.

4.The Regional Transport Officer
The Regional Transport Office
Tambaram, Chennai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for records or impugned Letter in Ref.No. Lr.R.No.40219/A4/2023 dated 16.02.2024 issued by the Respondent No.2 and quash the same and consequently direct the Respondents to register the vehicle under the Ownership Type - Divyangjan by providing the exemption from payment of tax for the said vehicle (Automatic Transmission Vehicle).

For Petitioner : Mr.S.Elango
for M/s.Elangovan Law Associates

For Respondents : Mr.P.Balathandayutham, Spl. GP

ORDER

An order dated 16.02.2024 rejecting the petitioner's request for exemption from payment of tax is challenged in this writ petition.



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2. The petitioner is a person with disability. He had purchased a Tata Nexon automatic transmission car. Upon applying for exemption under letters dated 02.11.2023 and 30.12.2023, such request was rejected by communication dated 16.02.2024.

3. Learned counsel for the petitioner invited my attention to letter No. RT-11036/57/2020-MVL dated 13.11.2020 of the Ministry of Road Transport and Highways (MORTH letter). He pointed out that it is recorded categorically therein that vehicles with automatic transmission are considered suitable for driving by some persons with disability without altering the vehicle. In spite of such categorical statement, learned counsel submits that the petitioner's request was rejected merely because G.O.Ms.No.3352 dated 29.12.1976 refers to motor vehicles which are specially designed or adapted for the use of physically handicapped persons.



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WEB COPY 4. Mr.P.Balathandayutham, learned Special Government Pleader, accepts notice for the respondents. He submits that the petitioner's request was rejected in view of the express language of G.O.Ms.No.3352.

5. G.O.Ms.No.3352 was issued on 29.12.1976. At that point of time, vehicles with automatic transmission were unavailable in India. In that factual context, the Government order specifies as under, in relevant part:

"all motor vehicles specially designed or adapted for the use of physically handicapped persons provided that the adapted vehicles are used by the physically handicapped persons only."

6. The MORTH letter dated 13.11.2020 provides as under:

"The attention is also invited to the advisory issued by the Ministry No. RT.II021140/2014-MVL dated 14th June 2016 regarding Procedure for guidelines for grant of



driving licenses and registration certificates to differently abled persons. The vehicles with Automatic gear have been considered suitable for driving by some of the Divyangjan without altering the vehicle."

7. From the above, it is evident that the MORTH concluded that vehicles with automatic transmission are suitable for driving by some disabled persons without altering the vehicle. This aspect was not noticed while issuing impugned order dated 16.02.2024. Consequently, the matter requires reconsideration. For such purposes, it is just and necessary to set aside the impugned order.

8. Therefore, impugned order dated 16.02.2024 is set aside and the matter is remanded for reconsideration. The second respondent is directed to re-examine the matter by taking note of not only G.O.Ms.No.3352 dated 29.12.1976 but also the communication dated 13.11.2020 from the MORTH with regard to vehicles with automatic transmission being considered suitable for driving without alteration



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by some disabled persons. A fresh decision shall be issued within **four weeks** from the date of receipt of a copy of this order.

9. W.P.No.11449 of 2024 is disposed of on the above terms. No costs.

30.04.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

- 1.The Secretary to Government of Tamil Nadu
Department of Transport, Secretariate, Chennai 600 009.
- 2.The Transport Commissioner,
Commissionerate of Transport and Road Safety
Chennai 600 005.
- 3.The District Collector, Chengalpattu District,
Office of District Collector, Chengalpattu.
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