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W.P.Nos.17250 & 17259 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR  
AND  
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.Nos.17250 & 17259 of 2019

Sunil Ads

rep by its Proprietor K.Anandavel

S/o P.Kuppusamy

16, Sathukamadam 3<sup>rd</sup> Street

Selavanpet

Vellore 632 001

..

Petitioner in both the W.P's

v.

1. District Collector, Vellore

Collectorate Building

Vellore 632 009

..

1<sup>st</sup> Respondent in both the W.P's

2. Corporation of Vellore

rep by its Commissioner

Vellore 632 001

..

2<sup>nd</sup> Respondent in both the W.P's

3. The State Highways

rep by Divisional Engineer

(Operation and Maintenance)

Vellore

..

3<sup>rd</sup> Respondent in WP.17250/2019



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4. National Highways Department  
rep by Divisional Engineer  
Vellore ..

3<sup>rd</sup> Respondent in WP.17259/2019

5. The Divisional Engineer  
National Highways, Vellore ..

4<sup>th</sup> Respondent in WP.17250/2019

6. The Assistant Divisional Engineer  
Office of the Assistant  
Divisional Engineer  
National Highways, Vellore ..

5<sup>th</sup> Respondent in WP.17250/2019 &  
4<sup>th</sup> Respondent in WP.17259/2019

7. The Project Director  
PIU, National Highway  
Authority of India  
Salem Main Road  
KAKC Petrol Bunk  
Krishnagiri 635 001 ..  
(Impleaded vide order of  
Court dt. 17.07.2019 in  
WMP Nos.20367 &  
20369/2019 in WP Nos.  
17250 & 17259/2019)

6<sup>th</sup> Respondent in WP.17250/2019 &  
5<sup>th</sup> Respondent in WP.17259/2019

8. The Regional Officer  
National Highway  
Authority of India  
Sri Towers, III Floor, DP-34  
(SP) Industrial Estate  
Guindy, Chennai 600 032 ..  
(Impleaded vide order of  
Court dt. 17.07.2019 in  
WMP Nos.20367 & 20369/2019  
in WP Nos.17250 & 17259/2019)

7<sup>th</sup> Respondent in WP.17250/2019 &  
6<sup>th</sup> Respondent in WP.17259/2019



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W.P.No.17250 of 2019 is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records from the file of the fifth respondent in Proceedings No.Na.Ka.124/2018/U dated 17.05.2019 and quash the same and further direct the first respondent to renew the license for Route Arch Board permitted to the petitioner in his Proceedings Mu.Mu.17366/2016 dated 08.02.2016 in the State Highways and National Highways for a further period of 3 years from 1.4.2019.

W.P.No.17259 of 2019 is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in Na.C3/3325/2018 dated 10.09.2018 and consequential order of the 4<sup>th</sup> respondent in Letter Ka.No.124/2018/U dated 20.05.2019 and quash the same and further direct the 1<sup>st</sup> respondent to renew the license for further period of three years for four advertisement hoarding located near Sarada Mansion, Anna Salai, Vellore in the National Highway as per the original license granted dated 04.08.2015.

For Petitioner        ::        Ms.S.P.Aarthi

For Respondents    ::        Mr.P.Muthukumar  
                                         Additional Advocate General  
                                         assisted by Mrs.V.Yamuna Devi  
                                         Special Government Pleader for R1  
                                         Mrs.P.Shanthi



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Standing Counsel for R2  
No appearance for R3 to R7 /  
R3 to R6 in both the writ petitions

COMMON ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

These two writ petitions are filed challenging the impugned order(s) passed by the fifth respondent in W.P.No.17250 of 2019 and the first and fourth respondents in W.P.No.17259 of 2019 respectively.

2. The brief facts that are necessary for the disposal of these writ petitions are as follows:

(a) The petitioner in these two writ petitions is a proprietary concern and carrying on business in the field of advertisements by erection of hoardings and digital boards. In W.P.No.17250 of 2019, the petitioner applied to the first respondent to permit to construct route board arch in the National Highways within the jurisdiction of the second respondent. After an enquiry, it appears that the petitioner also executed a lease agreement to erect 20 route arch boards in the National Highways for a period of 5 years,



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which expired on 13.03.2021. The grievance of the petitioner, while challenging the order impugned in W.P.No.17250 of 2019, is that the first respondent received the renewal application before the expiry of the license period on 24.01.2019 and rejected the request without even considering the nature of application.

(b) So far as the orders impugned in W.P.No.17259 of 2019 are concerned, the case of the petitioner is that the petitioner obtained license from the first respondent to erect 4 boards in the Foot Over Bridge and the license was for a period of 3 years with effect from 4.8.2015. However, by the impugned order dated 10.09.2018, the first respondent rejected the renewal application.

(c) The grievance of the petitioner is that the reasons assigned by the fifth respondent in W.P.No.17250 of 2019 and the first respondent in W.P.No.17259 of 2019 for cancelling the license granted earlier, cannot be sustained, as the orders were passed based on the circular of the National Highways Department. It is the case of the petitioner that the circulars of the National Highways and the Division Bench order are in respect of hoardings within right of way and the same would not apply to the present



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cases.

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3. The petitioner has admitted that by virtue of the license granted earlier, the petitioner through agency has erected the route arch boards and the LED boards by investing money. The installation of boards and hoardings is prohibited/regulated by the circulars.

4. The Division Bench in W.P.No.41289 of 2016 by order dated 30.10.2017 (Coimbatore Consumer Cause v. State of Tamil Nadu and others), has passed an order and the relevant paragraphs read as follows:-

“3.A comprehensive policy has been formulated by the Indian Road Congress through the guidelines on the roadside advertisements. These guidelines are being followed by the 16<sup>th</sup> respondent - national highways.

4.A counter affidavit has been filed by the 16<sup>th</sup> respondent indicating the policy that is being followed. Paragraphs 6 and 7 of the counter affidavit being apposite are extracted hereunder:

6.I humbly submit that the advertisement can often effectively distract the attention of drivers of motor vehicles, obstruct the view of drivers of fast moving vehicles. Considering the aforesaid a policy



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on road side advertisement has been formulated by Indian Road Congress vide IRC:46-1972. Further, the Ministry vide Circular No.RW/NH-33044/35/2001/S&R(R) dated 16.05.2002 has clarified that no advertisement hoardings are permitted on National Highways within the Right of Way except informatory signs in public interest, indicating the availability of Hospitals, Bus Station etc., or advertisement of temporary nature announcing local events such as mela, flower show etc. The Ministry vide letter No.RW/NH33044/18/2016/S&R(R) dated 07.09.2016 has directed the implementing agencies and Regional Officers to do the joint inspection of all the National Highways within their jurisdiction and send a consolidated report regarding the advertisement hoardings.

7.It is humbly submitted that the matter of removal of advertisement hoardings within the Right of Way of NH is being continuously pursued with Chief Engineer, National Highways, Chennai and also being monitored during the routine inspections of National Highways. The Chief



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Engineer, National Highways, Chennai vide Letter No.134/Opp1/NH/2010 dated 18.05.2017 has mentioned that all advertisement hoardings within the National Highways Right of Ways were removed in respect of NHs entrusted with NH wing of Tamil Nadu in the jurisdiction of National Highways Division, Chennai/Vellore/Madurai/Thanjavur/Salem/Thirunelveli/Nagercoil. Regarding the National Highways in the jurisdiction of NH Division Coimbatore, it is brought out that the removal of hoardings are under progress in the stretches from Km 157/0-162/0, Km 229/0 - 231/0 of NH-209 Coimbatore-Sathiyamangalam section and Km 320/0-332/6, Km 358/0-375/0 & Km 378/0-385/0 of NH-67 Suloor-Cunoor of section. The action taken report is annexed.

5.It appears that in the District of Coimbatore, permissions have been given to the private respondents to advertise on the traffic signals and in the State Highways. This, in our considered view, is contrary to the guidelines and the policy adopted by the 16<sup>th</sup> respondent. What is applicable to the National Highways necessarily has to be applied to the State Highways as well. Therefore, there cannot be any difference in



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terms of application of the policy with respect to the roads maintained by the National Highways and State Highways. Accidents do occur when permissions are granted for advertisements. This is the stand taken by the National Highways. Roads are divided as National and State Highways only for the convenience from the point of administration. After all, the user being the public is the same.

6.However, the permissions having been granted in favour of the private respondents by the administration of the Coimbatore District and two years having elapsed with 11 more months to go, we do not propose to interfere with it, as it would certainly affect their interest. After all, these respondents have put up their respective advertisements in accordance with law as it was prevailing at the relevant point of time.

7.A perusal of the guidelines would show that they are to be applied uniformly for all roads viz., National and State Highways. Therefore, the official respondents are bound to follow and give effect to the guidelines as being implemented by the 16<sup>th</sup> respondent. In such view of the matter, while there is no difficulty in permitting the private respondents to go on with the advertisements till the expiry of the licence issued to them, the official respondents concerned are hereby directed not to either renew the licence or give fresh one being contrary



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to the guidelines and the policy being adopted by the 16<sup>th</sup> respondent.

8.The 16<sup>th</sup> respondent is hereby directed to complete the task undertaken as submitted in its counter affidavit. Needful will have to be done within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that our direction is with specific reference to the advertisement qua right of way.”

5. From the policy on road side advertisement formulated by the Indian Road Congress, as stated in the counter affidavit filed in support of the writ petition and referred to by the Division Bench in the order cited supra, to the effect that the policy adopted by the 16<sup>th</sup> respondent therein should also be made applicable to the State Highways, this Court has no difficulty in holding that the petitioner cannot be permitted to go on with the display boards even after the expiry of the license issued to the petitioner.

6. The repeated submission of the learned counsel for petitioner is that the impugned orders challenged in the writ petitions were passed before



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the expiry of the license period and therefore the orders are without jurisdiction. This submission, though was available to the petitioner at the time of filing of the writ petitions, at this stage, after the expiry of the period of license, there is no scope for renewal, as the grant of license itself is prohibited as per the policy decision that was clarified by the Indian Road Congress.

7. Moreover, considering the fact that without an interim order, the petitioner was paying the license fee and was having unauthorized hoardings, this Court, by order dated 07.02.2024, directed the respondents 4 & 5 in W.P.No.17250 of 2019 to remove the unauthorized hoardings and report before the Court. Thereafter, it was reported that the hoardings put up by the petitioner in different parts of the Highways had been removed by the competent authority.

8. The learned counsel for petitioner then relied upon a circular dated 25.11.2010 issued by the Union Ministry of Road Transport and Highways. It is seen from the said circular that the Ministry has taken a policy decision



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not to allow erection of advertisement hoardings on National Highways within the Right of Way as they might distract the attention of the drivers.

However, limited participation by private parties is allowed for provision of road signs on National Highways and advertisement display is regulated by restricting it to the name or logo only of the firms and without unduly affecting the aesthetics of the highways and the attention of the drivers.

9. As per the revised policy decision of the Union Ministry of Road Transport and Highways, it is always open to the petitioner to apply for license afresh and the same may also be considered by the respondents subject to any other direction that had been issued by the Hon'ble Supreme Court or this Court relating to erection of hoardings.

10. For the reasons aforesaid, this Court finds no merit in the writ petitions. Accordingly, the writ petitions are dismissed. Consequently, W.M.P.Nos.16788, 16791, 16799, 16800, 18156 & 20371 of 2019 are also dismissed. No order as to costs.



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(S.S.S.R.,J.) (N.S.,J.)  
21.02.2024

Index : yes/no  
Neutral citation : yes/no  
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To

1. The District Collector  
Collectorate Building  
Vellore 632 009
2. The Commissioner  
Vellore City Municipal Corporation  
Vellore 632 001
3. The Divisional Engineer  
State Highways  
(Operation and Maintenance)  
Vellore
4. The Divisional Engineer  
National Highways Department  
Vellore
5. The Assistant Divisional Engineer  
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S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

SS

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