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C.R.P.(NPD).No.3134 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

RESERVED ON : 31.07.2024  
PRONOUNCED ON: 10.09.2024  
Coram

**THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN**

C.R.P.(NPD). No.3134 of 2023  
and  
CMP.No.19451 of 2023

M/s. Easy Ride Transports,  
Rep. by its Managing Partner,  
M.Jagannathan,  
No.5, Town Extension 3<sup>rd</sup> Street,  
Tiruppur ... Petitioner

-Versus-

- 1.The Regional Transport Authority,  
Tiruppur North Region, Tiruppur.
- 2.The Secretary,  
Regional Transport Authority,  
Tiruppur North Region, Tiruppur.
- 3.The Tamil Nadu State Transport Corporation Ltd.,  
Mettupalayam Road, Coimbatore.
- 4.Tiruppur South Taluk Bus Owners Association,  
Neal Prema Hotel, Tiruppur – 641 604
- 5.Tiruppur District Private Bus Operators Association,  
Santhamani Bus Depot Compound,  
Tiruppur – 641 604.



C.R.P.(NPD).No.3134 of 2023

6.K.Sivaraj

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7.Krishna Motor Service,  
Murugapalayam, Avanishi Road,  
Tiruppur.

8.Sugan Saran Bus Transports,  
3 Mariamman Street,  
Vavipalayam, Tiruppur.

9.S.Vasanthi,  
V.M.S. Transports,  
12/227, Karu

10.Ramajayam Motor Service,  
No.2-D-1, Thennampalayam,  
Tiruppur – 641 604.

11.Velavan Auto Service,  
236, Main Road,  
Nambiyur – 638 458,  
Tiruppur.

12.Annanmar Bus Company,  
31/4-C, Postal Colony,  
P.N.Road, Tiruppur – 641 602.

13.Tiruppur Karur Transports,  
T.K.T.Weigh Bridge, Palladam Road,  
Tiruppur – 641 604.

14.RKG Transport Travels,  
9, Universal Theatre Road,  
Tiruppur – 641 601.

15.Sivaraj Transports.  
Sathy Road, G.P.Theatre Opposite,



C.R.P.(NPD).No.3134 of 2023

Coimbatore.

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16.T.C.Sai Sastivel Transports,  
1/28, Kangeyampalayam Pudur,  
Tiruppur – 641 604.

17.Vishnukumar

18. Venmol ... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of the State Transport Tribunal, Chennai made in M.V.Appeal No.21 of 2022 dated 03.05.2023 as well as the order of the first respondent made in R.No.032874/A3/2019 dated 18.07.2020.

*For Petitioner : Mr.M.Palani  
for Mr.D.Kumaralingam*

*For Respondent 1 : Mr.R.Ramanlal,  
Additional Advocate General-IV  
assisted by  
Ms.Amritha Poongodi Dinakaran,  
Government Advocate*

*For Respondent 3 : Mr.Muralivinodh*

*For Respondent 5 : Mr.K.Hariharan*

*For Respondents : No appearance  
9 to 11 and 16 to 18*

*For Respondents : Not ready in notice  
6, 7, 8, 13 to 15*

### **ORDER**

This civil revision petition arises against the order of the State Transport



*C.R.P.(NPD).No.3134 of 2023*

Appellate Tribunal in MVA.No.21 of 2022 dated 03.05.2023 confirming the order of the Regional Transport Authority, Tiruppur (North Region) made in R.No.032874/A3/2019 dated 18.07.2020.

2. The civil revision petitioner is a motor vehicle operator. It is a partnership firm, initially operating a stage carriage as a town service. The service was between Tiruppur old bus stand and Karumathampatti. In 1996, taking advantage of T.N.Act 41 of 1992, the civil revision petitioner made an application seeking a variation of service by converting its town service into a mofussil service and for extension of route from Karumathampatti to Coimbatore. It also sought for additional single routes and for reduction of existing single routes. On 05.02.1996, the application was favorably considered. The service was converted into a mofussil service. However while dealing with the extension of the route from Karumathampatti to Coimbatore, the Regional Transport Authority restricted it only to Lakshmi Mills, i.e., the Authority only granted extension till Lakshmi Mills though the application sought extension till Coimbatore bus stand. This was on the ground that if the extension is granted to Coimbatore bus stand, the route would come to 27



C.R.P.(NPD).No.3134 of 2023

kilometers and since there is a restriction of 24 kilometers, while granting the extension, it was restricted to Lakshmi Mills as the distance between Karumathampatti and Lakshmi Mills was 24 kilometers.

3. Earlier, the State of Tamil Nadu enacted a legislation titled “The Tamil Nadu Motor Vehicles (Special Provisions) (Cancellation of Variations of Conditions of Permit) Act 19 of 1996. By this legislation, all the variations granted between 24.01.1996 and 24.05.1998 were cancelled.

4. Since the petitioner's permit was granted on 05.02.1996, which is after the cut off date, the variation granted on 05.02.1996 stood cancelled. A batch of writ petitions were filed before this court challenging the constitutional validity of the Act 19 of 1996. The said legislation came to be struck down by a judgment of this court on 07.08.2003 in ***R. Srinivasan v. State of T.N., (2003) 4 CTC 12***. Consequent to the writ petition being allowed, the variation granted to the petitioner on 05.02.1996 stood restored. Thereby, the petitioner started operating its vehicle on the varied route from Tiruppur old bus stand to Coimbatore Lakshmi Mills.



*C.R.P.(NPD).No.3134 of 2023*

5. Pleading that the Lakshmi mills, which is situated on the busy Avinashi road and since the police authorities also called upon the petitioner to park its vehicle elsewhere, the petitioner took out another application for variation. This application sought extension from termini being Lakshmi Mills to Coimbatore Gandhipuram bus stand, the extension being only for three kilometers. The petitioner filed an application before the Regional Transport Authority. This application was not considered by the authority stating that there had been no orders from the Government to entertain the applications for variation. This constrained the petitioner to file W.P.No.1315 of 2009 for a direction to consider the application and pass orders. This writ petition came to be ordered on 29.01.2009 directing the authority to consider the same.

6. The petitioner on the strength of the order of this court resubmitted the application seeking for variation. The authority, in obedience to the order of this court, notified the same and invited representations from the other operators. Having notified the application, no further steps were taken for a period of seven years. Therefore, the petitioner filed another writ petition in W.P.No.29629 of 2016 to direct the Regional Transport Authority to consider the application filed by him. This writ petition came to be ordered on



*C.R.P.(NPD).No.3134 of 2023*

26.09.2016 directing the Regional Transport Authority, Tiruppur to consider the application in accordance with law. The time limit fixed for consideration of the application was three months.

7. Despite a specific order of this court, the authority did not pass any orders on time. Therefore, the petitioner filed yet another writ petition in W.P.No.11450 of 2019 seeking for another direction to dispose of the representation. This writ petition was also ordered on 29.04.2019.

8. The Regional Transport Authority, Tiruppur North considered the application and heard the other operators and passed an order on 18.07.2020. He took a view that in terms of Section 80(3) of the Motor Vehicles Act, 1988 an application for variation should be treated as an application for grant of new permit and since as per Section 6(4) of the Act 41 of 1992, no new permit can be granted to any person in a route covered by the approved scheme, he rejected the application for variation.



*C.R.P.(NPD).No.3134 of 2023*

9. The petitioner filed another writ petition before this Court in W.P.No.16897 of 2021. This writ petition was filed seeking for a direction to pass orders on the application dated 04.12.2008. When the writ petition came up for admission on 06.09.2021, the Regional Transport Authority informed the court that he had rejected the application on 18.07.2020 itself. Therefore seeking permission of the court, an application was filed to amend the prayer from one of writ of mandamus to that of certiorarified mandamus to quash the proceedings dated 18.07.2020. This application was filed in WMP.No.21186 of 2021. It came to be allowed and the prayer was amended.

10. After hearing both sides, the said writ petition came to be allowed on 16.11.2021. Aggrieved by the same, an appeal was preferred before the First Bench of this Court by the Secretary of Regional Transport Authority, Tiruppur Region (North) and the Regional Transport Authority, Tirupur in W.A.No.1673 of 2022. This writ appeal came to be allowed on the sole ground that when the petitioner had an efficacious and alternate remedy before the State Transport Appellate Tribunal against the order dated 18.07.2020, it should have resorted to that remedy and ought not to have filed a writ petition challenging the same.



*C.R.P.(NPD).No.3134 of 2023*

11. The Division Bench granted liberty to the petitioner to challenge the order before the State Transport Appellate Tribunal, after impleading all the interested parties. Accordingly, the order dated 18.07.2020 was challenged before the State Transport Appellate Tribunal invoking the provisions of Section 89(1) of the Motor Vehicles Act read with Rule 157(2)(a) of the Tamil Nadu Motor Vehicles Rules. This was received in M.V.Appeal No.21 of 2022.

12. In the said Appeal, the State Transport Corporation and those who had objected before the Regional Transport Authority (North Region), Tiruppur were impleaded as parties. The State Transport Appellate Tribunal heard all the parties and delivered the judgment on 03.05.2023. By the said judgment, the learned Tribunal came to a conclusion that an application for variation cannot be treated as an application for grant of fresh permit. However in view of Rule 4 of the Tamil Nadu Motor Vehicles (Special Provisions) Rules of 1995, the variation cannot be granted for more than 24 kilometers and consequently, dismissed the appeal. Hence, this revision.

13. This revision was entertained by this court on 08.08.2023 and notice was issued to the respondents.



*C.R.P.(NPD).No.3134 of 2023*

WEB COPY

14. I have heard Mr.M.Palani for Mr.D.Kumaralingam for the civil revision petitioner, Mr.R.Ramanlal, Additional Advocate General-IV for Ms.Amrita Poongodi Dinakaran for the first respondent, Mr. Muralivinodh for the third respondent and Mr. K.Hariharan for the fifth respondent.

15. Mr.M.Palani would submit that the learned State Transport Appellate Tribunal had given fresh reasons to reject the application. This point on which the appeal came to be dismissed, had neither been urged by the Appellant nor it had been so contended by the respondents. He would point out that this was a point that had been raised by the Tribunal itself and had been answered against the Appellant.

16. The counsels, who appeared for the other respondents, fairly submitted that this issue had not been raised by them before the State Transport Appellate Tribunal nor had been urged at the time of written arguments. They would state that nonetheless the view taken by the learned Appellate Authority cannot be taken exception to as it is correct.



C.R.P.(NPD).No.3134 of 2023

17. On the merits of the case, Mr.M.Palani would submit that by virtue of Act 41 of 1992, an application for variation can be submitted every year and such application can seek for variation for the entire route covered under the scheme notified under Chapter VI of the Motor Vehicles Act, 1988 and therefore, the restriction under Section 80(3) of the Motor Vehicles Act would not operate.

18. Mr.R.Ramanlal would refer to the Division Bench Judgment of the **Kerala High Court in Kunhikrishnan Nair v. R.T.O. Malappuram, (1991) 2 KLT 266** to state that no variation can be granted beyond 24 kilometers. He would also rely upon the following judgments for the same proposition:

(i) **Ram Niwas v. State Transport Appellate Tribunal, 1993 1 RLW 289;**

(ii) **R.Venkatesham Shetty and others v. V.Sree Gajanana Motor Transport Co., Pvt., Ltd., 2002 AHIC 732;**

(iii) **A.Diwakara Naik v. Karnataka State, Transport Authority and Others, 2002 AHIC 1716;**

(iv) **Gopal Purohit v. State of Rajasthan & Others, 2019 (2) RLW 1352;**



C.R.P.(NPD).No.3134 of 2023

WEB COPY (v) *Anil Kumar v. Secretary, State Transport Authority & Others, 2022*

(2) *RLW 1639.*

19. The history of the Motor Vehicles Act and that of Special Legislation made by the State of Tamil Nadu would have to be considered for the disposal of this revision.

### **The history of the Motor Vehicles Act, 1988**

20. Prior to 1939, there was no consolidated legislation with respect to Motor Vehicles. The Central legislature brought about the Motor Vehicles Act of 1939 with an object of securing the safety and convenience of the public and for developing a coordinative system of transportation. The grant of permits was dealt with under chapter IV of the said legislation.

21. Permits were granted for operation of motor vehicles carrying passengers. However, the legislation did not contemplate the operation of motor vehicles by the State. With the advent of the Constitution, the State started nationalizing certain these services. As there was no uniform law, a



*C.R.P.(NPD).No.3134 of 2023*

specific Chapter was inserted in the 1939 Motor Vehicles Act by the Parliament by way of Amendment 100 of 1956.

22. By the said amendment, Chapter IV-A was introduced and it was given effect from 16.02.1957. This Chapter also contemplated the exclusion of private operators in areas operated by the state transport undertakings and for acquisition of monopoly in transport business in notified areas and notified routes. This was made subject to a scheme that had to be framed. Section 68-B of the Motor Vehicles Act gave an overriding effect to this Chapter as against Chapter IV. By Section 68-C, it also empowered the publication of a scheme for any area or route or portion thereof to the exclusion of other operators. The Section itself provided that the exclusion could either be partial or complete. Section 68-FF placed an embargo on the grant of permit by the transport authorities except in terms of the scheme in a notified route or a notified area. The constitutional validity of the nationalization was challenged and upheld.

23. The first of the cases which dealt with nationalization was Adarsh Travels Bus Service v. State of U.P., AIR 1986 SC 319. By virtue of this judgment, it was held that if a scheme is published under Section 68 of the



C.R.P.(NPD).No.3134 of 2023

Motor Vehicles Act of 1939 with respect to any area, route or portion thereof and the scheme contemplated the exclusion of the private operators, then no private operator could operate in the said area, route or portion thereof unless specifically authorized by the scheme itself.

24. Insofar as the State of Tamil Nadu is concerned, since it had adopted the policy of nationalization of bus services operated by private operators, under a misconception of law, permits were granted to private operators to operate on portions of notified schemes. Such permits were granted, irrespective of, whether the scheme was in operation or not. I should add that even if the schemes excluded the private operators, still permits were granted to them.

25. On account of such grant of permits, it affected the operations of the state transport undertakings. One such undertaking, namely Pandiyan Roadways Corporation Limited, challenged the grant of such permit. After it lost before this court, it took the matter by way of an appeal before the Supreme Court. The said issue was decided in ***Pandiyan Roadways Corporation Limited v. M.A.Egappan, (1987) 2 SCC 47***. By the said judgment, the



*C.R.P.(NPD).No.3134 of 2023*

Supreme Court held that there was no justification to limit the operation of

Section 68-F (1-D) only to applications for fresh permits and renewals. The court held that it would cover all the applications for variation of permits by inclusion of a route or a portion of the route in respect to which the scheme had been published.

26. The facts of that case become relevant. Mr.Egappan was permitted to run the stage carrier on the route between Checkanurani and Madurai. This is a part of a notified route – Madurai to Kumuli via Checkanurani, Valandur, Usilampatti and Theni. As the area was covered by the scheme, Pandiyan Roadways Corporation Limited argued that by virtue of the publication of a draft scheme under Section 68-C of the Act on 04.06.1976, it operated as a bar for grant of variation of permit in favour of Mr.Egappan.

27. This argument was raised by the state transport undertaking before the Regional Transport Authority and on appeal before the State Transport Appellate Tribunal and before this court in CRP.No.3117 of 1984 dated 22.11.1985. It lost before all these forums. The Supreme Court, as pointed out above, came to a conclusion that when the entire route between Madurai and Kumuli was notified, no persons other than those mentioned in Annexure-II of



*C.R.P.(NPD).No.3134 of 2023*

the said scheme could operate its stage carriage service. It allowed the appeal and set aside the orders of the authorities below.

28. This created a very piquant situation for the State of Tamil Nadu. By virtue of this judgment, around 4000 operators who were plying in the notified routes found their vehicles brought to a grinding halt. This put the Government in a catch-22 situation. It had to implement the judgment of the Supreme Court and if it were to implement it, in letter and spirit as it ought to, then it would have to substitute these 4,000 operators with its own vehicles. Such substitution would result in a significant financial outflow. The State did not possess sufficient funds to do so.

29. Apart from that, the public which was utilizing the services of those 4,000 operators would be stranded. In order to get over this situation, the Government issued an order in G.O.Ms.No.2222 of 1987 directing the maintenance of status quo. Thereafter, a legislation was also introduced in the State of Tamil Nadu in LA Bill No.42 of 1987 to permit the operators to continue their operation. Mr.M.Palani would submit that the bill was passed and the assent of the President was also given.



C.R.P.(NPD).No.3134 of 2023

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30. Yet before the Act was notified, the new Motor Vehicles Act, 1988 was passed on 14.10.1988. The Act came into force on 01.07.1989. Chapter IV of the Motor Vehicles Act, 1939 found its rebirth as Chapter V under the new legislation. Chapter IV-A of the Motor Vehicles Act of 1939 found itself in the new avatar of Chapter VI under the new Act. Under Section 98 of the new Motor Vehicles Act, Chapter VI was given overriding effect over anything inconsistent contained under Chapter V or any other law for the time being in force. Section 98 of the Motor Vehicles Act of 1988 corresponds to Section 68-B of the Motor Vehicles Act 1939. Similarly, Section 68-C is found under Section 99 and Section 68-D of the old Act became Section 100 of the new Act. The power for cancellation or modification of the schemes, which was earlier found under Section 68-E became Section 102 of Motor Vehicles Act of 1988.

31. Insofar as the district of Coimbatore is concerned, a scheme which was in existence was modified and notified in G.O.Ms.No.1532 Home (Transport-III) Department dated 17.11.1999. By the modified scheme, it excluded operation of all operators other than



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C.R.P.(NPD).No.3134 of 2023

- (a) the state transport undertakings of other States,
- (b) the existing permits of small operators protected under the Tamil Nadu Motor Vehicles (Special Provisions) Act of 19 of 1996.
- (c) the permits of stage carriage operators covered by the Interstate agreements.
- (d) the permits of minibus operators who operate in the rural areas of the District where no stage carriage services are provided up to a route length not exceeding 20 kilometers with overlapping distance not exceeding 4 kilometers on the route where the stage carriages are operating.

32. Going back to 1987, by virtue of Section 217 of the Motor Vehicles Act, 1988, the Motor Vehicles Act of 1939 stood repealed. It was also declared under Section 217(1) that any law corresponding to the said provision would also stand repealed. As the new Act came into force, the “status quo” that was being maintained by virtue of G.O.Ms. No. 2222 of 1987 lost its validity. Consequently, the Government issued G.O.(Ms.) No. 1784 dated 06.08.1990 cancelling the G.O.(Ms.) No. 2222 of 1987.



C.R.P.(NPD).No.3134 of 2023

WEB COPY

**The advent of the Tamil Nadu Motor Vehicles  
(Special Provisions) Act, 1992**

33. In this backdrop, an ingenious idea struck the private operators. They filed writ petitions before this Court seeking for mandamus directing the Government to notify the LA Bill No. 42 of 1987. These writ petitions came to be dismissed on 09.10.1990. With G.O.Ms.No.2222 of 1987 having been repealed and the predicament, which occurred after the judgment of Egappan's case having been revived, the State of Tamil Nadu enacted Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992.

34. The statement of objects and reasons specifically refers to the judgment in Egappan's case and states that in view of the said judgment, there is a possibility of rejecting the applications made by the private operators, who were operating on notified routes and on routes covered by the approved schemes, for grant of renewals and variations. It further states that it has been decided to allow the existing “small” bus operators to ply their stage carriers on any portion of the route or the route covered by the draft scheme or the approved scheme and also to provide for the variation of permits to such operators.



C.R.P.(NPD).No.3134 of 2023

WEB COPY

35. The reason for this legislation being that without the legislation, the private operators will have to stop their buses, which will affect the travelling public, since the state transport undertakings were not in a position to introduce as many buses as required to replace the private operators. The said Act was passed by the legislature and it was reserved for the assent of the President. The President also granted his assent on 31.07.1992. This special legislation is a classic example of balancing the interests of the State against those of private operators.

### **Scope of Section 6 of the Tamil Nadu Motor Vehicles (Special Provisions) Act, 1992**

36. The major portion of the 1992 legislation, apart from Sections 6 and 7, was deemed to remain in force between 04.06.1976 and 30.06.1990 (both dates inclusive). This Act was deemed by proviso to Section 1(3), as far as it relates to Section 6, to have come into force on and from 01.07.1990. Section 6 needs to be interpreted for the disposal of this case. It reads as follows:

*“(1)Notwithstanding anything contained in the Motor Vehicles Act or in an approved scheme, the Regional Transport Authority may, on an application made in accordance with the rules made in this behalf, renew the*



*permit to a small operator to ply his stage carriage on the entire route covered by the approved scheme or on such portion of the route covered by the approved scheme and for such period and subject to such terms and conditions, which may be in respect of matters specified in sub-Section (2) of Section 72 of the Motor Vehicles Act or in respect of any other matter as it thinks fit.*

*(2) Notwithstanding anything contained, in the Motor Vehicles Act or in an approved scheme, the Regional Transport Authority may, on an application made by the small operator in accordance with the rules made in this behalf and subject to such conditions as may be prescribed, vary the conditions of a permit for a stage carriage so as to enable the applicant to operate on the entire route or any portion of the route covered by such approved scheme.*

*(3) Notwithstanding anything contained in Chapter VI including Section 98 of the Motor Vehicles Act, the provisions of Chapter V of that Act, and the rules made thereunder shall, so far as may be, apply in relation to the renewal or variation of permit under this Section as they apply in relation to the renewal or variation of permit under the said Chapter V.*

*(4) Notwithstanding anything contained in this Act, no new permit shall be granted under this Act to any person on any route covered by an approved scheme.”*



C.R.P.(NPD).No.3134 of 2023

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37. A reading of Section 6 makes it clear that if an application is made in accordance with the Rules to be notified under this Act, it can be considered by the Regional Transport Authority for the entire scheme or a portion thereof. In terms of Section 6, the Regional Transport Authority may renew the permit of a small operator to ply his stage carriage on the entire route covered by an approved scheme or such portion of the route covered by the approved scheme.

38. Under Section 6(2), if an application is made by a small operator, the Regional Transport Authority has the power to vary the conditions so as to enable the small operator to operate on the entire route or any portion of the route covered by the approved scheme. The only bar that had been placed on the power of the Regional Transport Authority was that he cannot issue a new permit to any person on any route covered by the approved scheme.

39. The explanation to Section 3(1) makes it clear that 'small operator' means any stage carriage operator holding on the date of commencement of the Act or on any date subsequent thereto, five or less stage carriage permits. The manner of calculation of number of stage carriage was also provided in the



C.R.P.(NPD).No.3134 of 2023

proviso to Section 3(1).

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40. The definitions of the terms “draft scheme” and the “notified route” under this Act are same as those under Section 99 and Section 100 of the Motor Vehicles Act respectively.

41. A challenge was made in W.P.No.1221 of 1991 by a state transport undertaking as regards the constitutional validity of this special legislation. The challenge was to Sections 1(3), 6(4) and 7 of the said Act. The challenge was rejected by an order of Division Bench of this court in W.P.No.1221 of 1991 dated 30.04.1993. It is not in dispute that the said order has attained finality.

**Applicability of the provisions of the Motor Vehicles Act, 1988 for an application for variation under the 1992 Act**

42. I have to take notice of a subsequent judgment of the Supreme Court in *G.T.Venkataswamy Reddy v. State Transport Authority and Others, 2016 (8) SCC 402*. By the said judgment, the Constitution Bench of the Supreme Court resolved the dispute that arose between the judgments rendered in *Karnataka State Road Transport Corporation v. B.A.Jayaram and Others, 1984 (Supp) SCC 244* (hereinafter referred to as Jayaram) and *Pandiyan*



C.R.P.(NPD).No.3134 of 2023

***Roadways Corporation Ltd, v. M.A.Egappan, (1987) 2 SCC 47*** (hereinafter

referred to as Egappan). The Supreme Court held that the judgment in Jayaram's case is not a good law and the view taken in the Egappan's case is correct. While dealing with the said dispute, the attention of the Court was drawn to the fact that it is not dealing with the Act 41 of 1992.

43. I am referring to the said judgment because it is a plea of learned Additional Advocate General that this Court should take note of the judgment in G.T. Venkataswamy Reddy's case while disposing of this revision. A careful perusal of this judgment of the Supreme Court makes it very clear that it never dealt with Act 41 of 1992, which is a special legislation covering the State of Tamil Nadu and therefore, I have to dispose of this case in the light of the legislation itself and the judgments interpreting the said legislation.

44. Since the Tamil Nadu Act 41 of 1992 is an exception to the Motor Vehicles Act of 1988, the judgments relied upon by the learned Additional Advocate General starting from **(1991) 2 KLT 266** and the other authorities interpreting Section 80(3), would not be helpful in disposing of this revision.

45. It is here that the learned Additional Advocate General would refer to Section 6(3) to interpret that by virtue of said provision, Section 80(3) would be made applicable to the State of Tamil Nadu.



C.R.P.(NPD).No.3134 of 2023

WEB COPY

46. I have already extracted Section 6 above. A reading of Section 6(3) makes it clear that the provisions of Chapter V of the Motor Vehicles Act, 1988 and the rules made thereunder shall apply for renewal or variation so far as they may be made applicable for renewal or variation under the special legislation. In other words, if there is a specific clause in the State legislation dealing with the application for variations, then I have to give importance to the mandate of the legislature of the State of Tamil Nadu rather than the parliamentary legislation. This is because a Presidential assent has been given to the former. See Article 254(2) of the Constitution of India. In case no special provisions have been made, then I have to refer to Chapter V of the Motor Vehicles Act and apply them.

47. A perusal of Section 6(2) makes it clear that the Regional Transport Authority has the power to vary the conditions of the permit of a small operator, when an application is made in accordance with the Rules made in this behalf so as to enable the applicant to operate on the entire route or any portion of the route covered by the approved scheme.

48. A reading of Act 41 of 1992 shows that the word “entire” has been



used by the legislature not less than seven times in the said Act. This shows that the intention of the legislature was to enable persons like the petitioner, who operates on a portion of a route covered by a scheme, to seek for variation of the permit which could extend to the entire route itself.

49. To continue of Act 41 of 1992, though the legislation came into force in 1992, the rules had not been notified immediately. Therefore, writ petitions came to be filed before this court by the state transport undertaking in W.P.No.850 of 1994, etc.,. The said writ petitions were disposed of on 17.09.1994 by Mr. Justice D Raju (as his lordship then was). While allowing the writ petitions, he held as follows:

*“Grant of variation resulting in overlapping performance on nationalised or notified routes in contravention of the provisions of an approved scheme in force cannot for the mere asking as could be said to be in respect of such claims under Chapter V relating to a non-notified route not covered by any approved scheme of nationalisation, be granted. Consequently, in cases where claims for variation is sought for in respect of a notified route covered by an approved nationalisation scheme in force, such claims have to be considered keeping in view the principles laid down by Courts restricting operation, even*



*over any portion of the frozen area, route or part thereof with no room for corridor shelters or protections too and the adverse impact and serious consequences the grant of variation sought for, if granted is likely to have on the efficient, economic and co-ordinated implementation of the scheme by the State Transport Undertaking and also the desirability of the exclusion of the services of the private stage carriage operators on the route or sectors of the route and all other relevant considerations visualised for regulating the grant under the provisions of the Act and the rules made thereunder.”*

50. This order was carried in appeal by the private operators in W.A.No.1265 of 1994, etc. The appeals were disposed of on 09.07.2001 in the following terms:

*“It may be pertinent to note that the government had framed Rules to consider the applications contemplated under Section 6(1) and (2) of the Act 41 of 1992 in exercise of their Rules making power under Section 8(1) of the said Act. The Rules are known as Tamil Nadu Motor Vehicles (Special Provision) Rules, 1995 which came into force on the 18th day of May, 1995. Though the Rules framed subsequent to the disposal of the writ petitions of the learned single Judge, we are of the view that as on today when the Rules available for the Authorities to dispose of*



WEB COPY



C.R.P.(NPD).No.3134 of 2023

*the necessary applications, the order of remand of the learned single Judge need not be interfered with.”*

51. Therefore, the argument of the learned Additional Advocate General that even after the special legislation under Act 41 of 1992 and the rules made thereunder have come into force, the application for variation of permit has to be dealt with in terms of Motor Vehicles Act 1988 and the Rules thereunder is misplaced.

**An application for variation under Act 41 of 1992 is not fettered by the restraints of Motor Vehicles Act**

52. Insofar as the State of Tamil Nadu is concerned, if there is a draft scheme under Section 99, notified scheme under Section 100 and an approved scheme under Section 109 of the Motor Vehicles Act, and the applicant is a small operator covered by Act 41 of 1992, by virtue of Section 6(2) of the 1992 Act, he is entitled to apply for variation of his permit. Such application for variation of permit can be for the entire route or a portion of the route covered by the approved scheme.

53. Now I turn to the rules that had been notified by the Government of



*C.R.P.(NPD).No.3134 of 2023*

Tamil Nadu titled “Tamil Nadu Motor Vehicles (Special Provisions) Rules of 1995”. The Government is empowered by the legislature to make the rules in terms of Section 8 of the Act 41 of 1992. The rules were notified by the Government vide G.O.(Ms.).No.718 dated 18.05.1995. The relevant Rule for the purpose of this revision is Rule 4.

54. Under Rule 4 read with under Section 6(2) of Act 41 of 1992, an application for variation of permit can be submitted to the state transport authority or the regional transport authority, as the case may be, in the prescribed form notified under Rule 279 of the Tamil Nadu Motor Vehicles Rule, 1989. Rule 279 prescribes the fees that has to be paid for the purpose of making out an application. The manner of consideration of the such application bearing the prescribed fees is given under Rules 4(2) and 4(3) of the said Rules.

55. Insofar as the grant of variation is concerned, it is covered under Rule 4(4). Under Rule 4(8), a variation of conditions of permit cannot be granted for more than once in a year. It also clarifies that one year means one full year should lapse from the date of implementation of the earlier variation order issued to that operator. The important word found under Rule 4(4) is



“such variation” shall not exceed twenty four kilometers.

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56. The word “such” has been interpreted by the Constitution Bench of the Supreme Court in ***Central Bank of India v. Ravindra and Others, (2002) 1***

**SCC 367**. The relevant paragraph is extracted hereunder:

*“43. Webster defines “such” as “having the particular quality or character specified; certain; representing the object as already particularised in terms which are not mentioned”. In New Webster's Dictionary and Thesaurus, meaning of “such” is given as “of a kind previously or about to be mentioned or implied; of the same quality as something just mentioned (used to avoid the repetition of one word twice in a sentence); of a degree or quantity stated or implicit; the same as something just mentioned (used to avoid repetition of one word twice in a sentence); that part of something just stated or about to be stated”. Thus, generally speaking, the use of the word “such” as an adjective prefixed to a noun is indicative of the draftsman's intention that he is assigning the same meaning or characteristic to the noun as has been previously indicated or that he is referring to something which has been said before. This principle has all the more vigorous application when the two places employing the same expression, at the earlier place the expression having*



C.R.P.(NPD).No.3134 of 2023

*been defined or characterised and at the latter place having been qualified by use of the word “such”, are situated in close proximity.”*

Therefore, the limitations placed by the rules applies to “such” applications and cannot be stretched to include application filed subsequently.

57. A reading of the Act and the Rules therein makes it clear that the application for variation can be submitted under Rule 4(1) with the prescribed fee. On receipt of the application for variation, the procedures contemplated under Rule 4(2) and Rule 4(3) would have to be followed and on the basis of the said procedures, an order has to be passed under Rule 4(4). The restriction of 24 kilometers is found in the proviso to Rule 4(4). While reading of this proviso to Rule 4(4) with Rule 4(2) makes it clear that a person, who is covered by the protective umbrella of Act 41 of 1992, can make an application for variation once in a year and seek for variation of a distance to an extent of 24 kilometers. This bar on variation for a distance of 24 kilometers found under rule 4(4) is not absolute as in the case of Section 80(3). This is so because Section 80(3) does not contemplate that a fresh application for variation can be



C.R.P.(NPD).No.3134 of 2023

made on the expiry of one year.

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58. It has been conclusively held by this Court that Act 41 of 1992 operates only for permit holders in the State of Tamil Nadu. Therefore, wherever the Central Act applies, the bar under Section 80(3) would apply. For persons covered under Special Legislation, Act 41 of 1992 and its Rules have to be applied.

59. Applying the said Act and Rules, I am of the clear view that a small operator as defined under Section 3 of the Act can file an application seeking for variation of conditions of his permit to include the route covered by a draft scheme/ notified route /approved scheme. This variation may be sought for up to a maximum of 24 kilometers on every “such” application. This does not bar him from filing a fresh application again for further variation up to 24 kilometers after the expiry of a period of one year. This interpretation is applied to the facts of the present case.

60. I am not in a position to sustain the order of the learned Tribunal



*C.R.P.(NPD).No.3134 of 2023*

which has held that the upper limit of 24 kilometers is a one-time measure. The Tribunal would have been right in its interpretation if Section 80(3) alone is applicable. I have held that Act 41 of 1992 and the Rules made thereunder, as they stand today, enable a small operator to file a fresh application for variation after the lapse of one year and each of such application entitles the operator to seek for variation up to 24 kilometers. Hence, the view taken by the Tribunal necessarily has to be interfered with.

**The order dated 25.07.2024 does not operate as a bar to the present revision**

61. Mr.K.Hariharan would contend that by virtue of the order dated 25.07.2024, no orders are necessary in this civil revision petition.

62. While hearing the revision, on 12.07.2024, since I felt that the civil revision petitioner was put in a predicament that he has to stop the vehicle at Lakshmi mills as termini and face the wrath of police authorities, I requested the learned Additional Advocate General to come up with a solution.



*C.R.P.(NPD).No.3134 of 2023*

63. The learned Additional Advocate General replied that if an application is submitted seeking for variation as a one-time measure, the Regional Transport Authority might consider the same. Pursuant thereto, an application was submitted and the same was rejected on 25.07.2024 not on the ground that the variation exceeds 24 kilometers, but on the same ground that was reiterated in the order impugned in the present civil revision petition. He had held that the grant of variation would amount to fresh permit, which obviously shows that he has not gone through the order of the State Transport Appellate Tribunal, which has held otherwise. The order, having been passed in order to reach a solution, cannot be a bar for pursuing this civil revision petition, which arises under different circumstances altogether.

64. I have to make it clear by this order that an application for variation under Section 6(3) is maintainable and such application is not hit by restrictions on the distance as found under Section 80(3). This is because of the Special Provisions applicable in Tamil Nadu as found under Section 6(3) read with Rule 4(4) and Rule 4(8).

**Special Law excludes the operation of the General Law**



*C.R.P.(NPD).No.3134 of 2023*

65. It is a settled position of law that where the special law operates, it excludes the operation of the general law. The general law in this case is the Motor Vehicles Act, 1988. The special law is Act 41 of 1992. When the State of Tamil Nadu has made special provisions for small operators and when that special provision has got the assent of the President in terms of Article 254(2), it is the duty of this Court to interpret the legislation keeping in mind the purpose for which the legislation has been brought into force.

66. If I were to apply Section 80(3) as done by the authorities, then I would be giving precedence to Section 80(3), than to Section 6(3) and Rules 4(4) and 4(8). That will certainly not be in line with Article 254(2) & the special legislation.

### **Decision**

67. The order of the State Transport Appellate Tribunal in M.V.Appeal No.21 of 2022 dated 03.05.2023 in confirming the order of the first respondent in R.No.032874/A3/2019, dated 18.07.2020 is set aside. Since the first respondent has not referred to Section 6(3) of the Act 41 of 1992 and Rule 4(4) and Rule 4(8) of the Rules, in an appropriate perspective, the matter is remitted



C.R.P.(NPD).No.3134 of 2023

to the first respondent to dispose of the application in accordance with the interpretations placed by this Court.

68. Accordingly in the light of the above discussion, the civil revision petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

69. I have to take note of the fact that the application has been pending for the past 16 years. The first respondent shall set a date for hearing and dispose of the application on or before 10.10.2024.

10.09.2024

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Index : Yes/No  
Speaking Order/Non-speaking order  
Neutral Citation : yes/No



*C.R.P.(NPD).No.3134 of 2023*

To

1.The Regional Transport Authority,  
Tiruppur North Region, Tiruppur.

2.The Secretary,  
Regional Transport Authority,  
Tiruppur North Region, Tiurppur.



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*C.R.P.(NPD).No.3134 of 2023*

V.LAKSHMINARAYANAN, J.

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C.R.P.(NPD).No.3134 of 2023

10.09.2024