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CRP.No.3739 of 2022

In the High Court of Judicature at Madras

Reserved on: 26.03.2024

Delivered on : 03.06.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.No.3739 of 2022

Sri Ishwarya Transports

Rep. By its Partner V.Lakshminarayanan

Tirupur.

... Petitioner

-Vs-

The Regional Transport Authority

Coimbatore Region

Collectorate

Coimbatore 641 018

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, as against the judgment of the State Transport Appellate Tribunal, Chennai, made in M.V.Appeal No.75 of 2000 dated 24.09.2008.

For Petitioner : Mr.N.L.Rajah, Senior counsel
for Mr.T.Padmanabhan

For Respondent : Dr.S.Suriya, Addl.Govt.Pleader



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ORDER

This Civil Revision Petition is filed by the revision petitioner/appellant as against the order passed by the State Transport Appellate Tribunal, Chennai in M.V.Appl.No.75/2000 dated 24.09.2008, confirming the appeal order passed by the Regional Transport Authority, Coimbatore, whereby the authority rejected the stage carriage permit for the revision petitioner.

2. The revision petitioner/appellant applied for the grant of stage carriage permit to ply one additional bus on the Coimbatore Town service route viz., Oppanakkara Street-Vysial Street junction to Marudamalai with independent shuttle between Oppanakkara Street-Vysial Street junction to Kanuvoi.

3. Before the Regional Transport Authority, Coimbatore (South), the application of the revision petitioner/Transport Operator was received on 07.12.1998. Since the said application was pending, the Transport Operator approached this court and obtained direction to the authority to consider and pass orders within 6 weeks.



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4. The Authority posted the application for hearing and on representation by both sides, taken the application for disposal on two grounds:-

(1) Whether there is any legal bar for granting the permit applied for:

and

(2) Merit of application.

The authority found that as per Section 6(4) of Act 41 of 1992 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, gives protection for the existing operators to ply their stage carriages on the sectors of the approved scheme. The Authority also found that the applicants are not having any permit in their favour and there is legal bar for grant of stage carriage permit applied for in lieu of Section 99(2) of the Motor Vehicles Act.

5. As regards the merits of the application, the Regional Transport Authority, in his order dated 11.01.2000, found that no portion of the route is ill served by buses at present and every portion of the route is adequately covered by buses; the proposed terminus point is also not an existing one and it is a congested area situated in the heart of the city; there is no public



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representation or any need; in view of the legal bar and in lieu of the impediment under Section 99(2) of the Motor Vehicles Act, 1988. On such findings, the applicant's transport stage carriage permit was rejected by the Authority.

6. The Revision Petitioner/Transport Operator filed appeal before the State Transport Appellate Tribunal. The learned Appellate Authority, dismissed the appeal and confirmed the order of the Authority by pointing out that permit cannot be granted to the appellant in violation of provisions of law.

7. The learned Senior counsel appearing for the revision petitioner/appellant would submit that lack of transport facilities from Ukkadam Bus stand which is alighting point of all buses plying to and from towards Palani and Kerala side and Ukkadam bus stand is located very close to Oppanakkara Street-Vysial Street which is one terminal point of the route. In the absence of statutory notification issued under Section 71(3) of the M.V.Act, 1988, there can be no restriction for the grant of permit and there was no statutory ban for the grant of permit.



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8. The learned Senior counsel appearing for the revision petitioner/appellant would also submit that the instant route sought for by the Transport Operator is not overlapping Approved Scheme as contemplated in Tamil Nadu Act 41 of 1992 and there can be no bar for the grant of permit. But the Tribunal without proper consideration of the facts of the case accepted the erroneous order of the Regional Transport Authority and dismissed the appeal and therefore the entire proceedings is vitiated by error of thought.

9. The learned Senior counsel would submit that in as much as the route applied for is not covered by any approved scheme as contemplated in Tamil Nadu Act 41 of 1992; there can be no bar for the grant of permit particularly in view of the liberal policy of grant of permit embodied in Section 80 of M.V.Act affirmed by the Supreme Court in the decision reported in ***AIR 1992 SC 443***.

10. Per contra, the learned Additional Government Pleader appearing for the respondent would submit the approved modified Area Scheme pertaining to entire revenue district of Coimbatore has got revived and in force



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and as such, as per the scheme, the existing private operator alone were permitted to operate on the route in existence and no fresh permit could not be issued to any private operator on the notified or area as per Section 99 (2) MV Act, 1988. Further Section 6(4) of Tamil Nadu Vehicles (Special Provisions) Act 1992 also provides that on or after 01.07.1990 no new permit shall be granted under this Act to any person or any route covered by approved scheme.

11. The learned AGP would submit that the proposed terminus Oppanakara Street-Vysyal Street junction is not an existing terminus and also very congested area in the heart of the city. Moreover no stage carriages were allowed having Oppanakara Street as “Terminus” so far in respect of all town services both state transport undertaking and private operators. The Regional Transport Authority rightly rejected the application for new town service route permit and the Appellate Tribunal also confirmed the order of the Authority on re-appreciation of the facts and Rule Provision.

12. Heard both sides and perused the records carefully.

13. It is seen that as per Section 6(4) of Act 41/82 (Special Provision Act), no fresh stage carriage permit can be issued to any private operator in



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respect of any notified area or routes by virtue of the Area Scheme notified on 23.05.1995, subsequently modified on 01.09.1997, 17.11.1999 and on 23.02.2011. Entire state of Tamil Nadu is covered by the approved scheme. So the grant of fresh permit as per the laws prevailing either on the date of application or as on today, cannot be granted to the petitioner. Hence, the Regional Transport Authority rightly rejected the request of the petitioner and the same was confirmed by the Tribunal.

14. The Regional Transport Authority as well as the State Transport Appellate Tribunal have arrived at a finding after considering the Rule provision and Approved Scheme. This court do not find any error or illegality in the decision arrived at by the authorities below. Finding no merits in the revision, this Civil Revision Petition is dismissed. The order of the Tribunal is confirmed. No costs.

03.06.2024

nvsri

To

1. The Regional Transport Authority, Coimbatore Region
Collectorate, Coimbatore 641 018.
2. The Registrar, State Transport Appellate Tribunal, Chennai.



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J.NISHA BANU, J.

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