



W.P.No. 26069 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.26069 of 2017 and
W.M.P.Nos.27683 and 27864 of 2017

The Villupuram District Private Bus Owners
Association
Represented by its Secretary, Periasamy Street,
Vazhudareddy, Villupuram 2 .. Petitioner

Versus

1. The Government of Tamil Nadu
Represented by its Secretary
Home Department,
Fort St.George, Chennai 600 009.
2. The Transport Commissioner
Chepauk, Chennai 600 005.
3. Additional Director General of Police,
State Traffic Cell
Chennai 600 004.
4. Addl Director General of Police,
State Traffic Planning Cell,
O/o the Director General of Police,
Tamil Nadu, Chennai 4.

...Respondents



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Prayer: This petition is filed to issue a writ of Certiorari calling for the records of the 4th respondent with regard to the impugned memo issued under C.124 Camp/ADGP-STPC/2017 dated 24.08.2017 under which he directed all the police officers in the State of Tamil Nadu for prosecution of drivers driving without licence and quash the same and pass orders.

For Petitioner : Mr.M. Palani

For Respondents : Mrs.C. Meera Arumugam
Additional Government Pleader

ORDER

This petition is filed to issue a writ of Certiorari calling for the records of the 4th respondent with regard to the impugned memo issued under C.124 Camp/ADGP-STPC/2017 dated 24.08.2017 under which he directed all the police officers in the State of Tamil Nadu for prosecution of drivers driving without licence and quash the same and pass orders.

2. The case of the petitioner is that the members of the petitioner Association herein are all small bus operators and they are all drivers and conductors to operate their respective stage carriage services. The drivers



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and conductors for the vehicles are appointed after duly verifying the driving licence and other required documents. When this being the case the driving license of the drives and conductors are kept in the safe custody in the office of respective bus owners and during the duty time they carry only the xerox copy of the same as the carrying of the originals of the same would be exposed to natural calamity such as rain,soil etc., While so all of sudden the 4th respondent herein has issued a circular wherein a instruction was issued to prosecute those persons who are found to be driving without license. Aggrieved over the same the petitioner has come up with this petition.

3. It is brought to the notice that Rule 139 of the Central Motor Vehicles Rules, 1989 has been amended through Notification G.S.R.1081(E) dated 02.11.2018 and besides the paper documents, the driver is permitted now to carry the requisite documents of the motor vehicles in digital format.

4. Before adverting further it would be relevant to refer to Section 130 of the Motor Vehicles Act and the same is extracted hereunder:

130. Duty to produce licence and certificate of



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Registration:-

(1) the driver of a motor vehicle in any public place shall on demand by any officer in uniform, produce his licence for examination.

2) The conductor, if any, of a motor vehicle on any public place shall, on demand by any officer of the Motor Vehicles Department authorised in this behalf, produce the licence for examination.

3) the owner of a motor vehicle(other than a vehicle registered under section 60), or in his absence the driver or other person in charge of the vehicle, shall, on demand by a registering authority or any other office of the Motor Vehicles Department duly authorised in this behalf, produce the certificate of insurance of the vehicle and where the vehicle is a transport vehicle, also the certificate of fitness referred to in section 56 and the permit and if any or all the certificates or the permit are not in the possession, he shall within fifteen days from the date of demand, submit photo copies of the same, duly attested in person or send the same by registered post the officer who demanded it



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*Explanation – For the purposes of this sub-section,
“ certificate of insurance” means the certificate
issued under sub-section (3) of Section 147)*

*4) If the licence referred to in sub-section (2) or
the certificates or permit referred to the sub-
section (3), as the case may be, are not at the time
in the possession of the person to whom demand
is made, it shall be a sufficient compliance with
this section if such person produces the licence or
certificates or permit within such period in such
manner as the Central Government may
prescribe, to the police officer or authority
making the demand:*

*Provided that except to such extent and with such
modifications as may be prescribed, the
provisions this sub-section shall not apply to any
person required to produce the certificate of
registration or the certificate of fitness of a
transport Vehicle.”*

5. This Court while dealing with the identical issue in
W.P.No.23288,23669 and 23670 of 2017 the division Bench of this
Court vide order dated 05.12.2018 has disposed of the writ petitions and
the relevant portion is extracted hereunder:



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“ In view of the said amendment of relevant Rule, we are of the opinion that the present writ petitions filed by the petitioners have become infructuous and the same are accordingly disposed of. Consequently, the connected Miscellaneous petitions are also disposed of. No costs.

6. In view of the provisions laid down under Motor vehicles Act and also going through the above precedent and the amendment of Rule 139 of the Central Motor Vehicles Rules, 1989 through Notification G.S.R.1081(E) dated 02.11.2018, this writ petition is disposed of. No order as to costs. Consequently, the connected miscellaneous petitions are closed.

05.04.2024

Speaking order : Yes/No

Neutral citation : Yes/No

Index : Yes/No

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To

1. The Government of Tamil Nadu

Home Department, Fort St. George, Chennai 600 009.

2. The Transport Commissioner

Chepauk, Chennai 600 005.

3. Additional Director General of Police,

State Traffic Cell

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4. The Addl Director General of Police,
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V.BHAVANI SUBBAROYAN, J.

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