



W.P(MD).No.20686 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

**W.P(MD).No.20686 of 2024
and
W.M.P(MD).No.17550 of 2024**

Mohammed Ashraf

... Petitioner

Vs.,

1.The District Collector,
Tirunelveli,
Tirunelveli District.

2.The Additional Director of Geology and Mining,
Tirunelveli, Tirunelveli District.

3.The Superintendent of Police,
Tirunelveli, Tirunelveli District.

4.Nellai Mavata Kuvarigal Mattrum Kirasar Nala Sangam,
(Reg No.10/2023)
rep., through its President,
No.40, NGO New Colony, Jawahar Nagar,
Palayamkottai, Tirunelveli 627 007.

(R4 is impleaded vide Court order dated 03.09.2024 in W.M.P(MD).No.
17850/2024 in WP(MD).No.20686 of 2024 by NSKJ)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a
Writ of Mandamus to direct the respondents to issue transit pass to the vehicles



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above 10 wheels engaged by the petitioner carrying minor minerals and permit the vehicles above 10 wheels to pass through the Tirunelveli District.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.Veerakathiravan
Additional Advocate General III
assisted by Mr.D.Gandhiraj (for R1 & R2)
Special Government Pleader
Mr.M.Vaikkam Karunanithi (for R3)
Government Advocate (crl.side)
Mr.Sricharan Rangarajan
Senior Counsel for
Mr.D.Saravanan (for R4)

ORDER

This writ petition has been filed seeking for issuance of writ of mandamus directing the respondents to issue transit pass to the vehicles above 10 wheels engaged by the petitioner carrying minor minerals and permit the vehicles above 10 wheels to pass through the Tirunelveli District.

2. The petitioner is doing transport business. He used heavy vehicles with 12 wheels and 16 wheels on lease for supply of mining minerals to the needed persons and minor minerals are being transported from Tirunelveli District by the vehicles engaged by the petitioner firm. As such, the petitioner engaged the vehicles having more than 10 wheels for the purpose of transporting minerals to



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Thengapattinam Fishing Harbour in Kanyakumari District. While that being so, the first respondent had orally instructed the quarry owners not to issue transit pass to the vehicles with more than 10 wheels. To the impact, the petitioner's vehicles loaded with minerals could not be moved out of the quarry. In this regard, the petitioner gave representation, but no steps have been taken so far. Hence, the petitioner seeks direction of this Court.

3. It is the stand of the first respondent that he has not issued any blanket prohibitory order banning all the vehicles having above 10 wheels from entering Tirunelveli District and such claim made by the petitioner is totally imaginary and false. It is also denied that the respondents are refusing to issue pass to the petitioner's vehicle. The respondent office does not issue any transit pass to any of the transporters and no such request by the petitioner for issue of passes of any type is pending with the respondent office. The respondent only regulates the leasing or permitting the public for quarrying and removal of minor minerals from Government poramboke lands under it in accordance with terms and conditions imposed by the various statutory authorities. In the interest of the larger public, the petitioner is duty bound to enforce various conditions laid down by various authorities. The passes are issued to the quarry owners subject to the terms and conditions of the license in each case to case basis.



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4. Heard both sides.

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5. It is the contention of the petitioner that when the permit has already been granted under the Motor Vehicles Act to run the heavy vehicles, the authorities cannot restrict to issue pass to the vehicles having 10 wheels and it is usurping the right of the petitioner in operating the vehicles. Whereas the learned Government Pleader would submit that the pass has been restricted for 10 wheels vehicles only at the instructions of the quarry owners, whereas the newly impleaded fourth respondent filed an affidavit to the effect that they have not made any such request for restricting the pass to the 10 wheels vehicles. The affidavit filed by the fourth respondent is taken on file.

6. Now, the contention of the learned Government Pleader is that if heavy vehicles are permitted to carry minerals in the village road, the road will be damaged and therefore, only taking consideration the request of the villagers, pass cannot be issued.

7. I have perused the materials available on record.

8. When the permit has been granted for the vehicles more than 10 wheels under the Motor Vehicles Act, merely on the basis of the representation of



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the villagers, it cannot be restricted on the transport operators to operate only 10 wheels vehicles. If such contention is accepted, in fact, it will impede the very right of doing the business of the parties. Though it is the contention of the respondents that due to heavy vehicles, village road will be damaged. Only for that purpose, fees has been collected and the money has been kept in the Tamil Nadu District Minerals Foundation. Section 13 of the Tamil Nadu District Minerals Foundation Rules, 2017, refers to the expenditure of the fund. Therefore, only in that object, the amount has been collected and kept. Therefore, mere anticipation that road would be destroyed, is not a reason to restrict the carrying capacity of the vehicles.

9. In such view of the matter, this Court is of the view that as long as there is valid permit has been issued by the competent authority under the Motor vehicle Act to run the heavy vehicle, the right of the party cannot be curtailed by restricting the pass to the vehicle having 10 wheels. If such restriction is allowed, in fact, it would take away the right of the petitioner to carry the business also. This includes not only the petitioner, but the operators of the mines. If any damage has been shown by the vehicle to the road that can be set right by different machanism by using funds accumulated in the minerals foundation. That apart, some other condition has also been imposed for speedy restrictions in the village.



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Without doing so, just restricting the pass to the 10 wheels vehicles will certainly affect the very right of the business.

10. In view of the above, as the fourth respondent has also taken a stand that they have not made a request for restricting pass to the 10 wheels vehicles, the stand of the respondent that only at the instance of the fourth respondent pass was restricted, is unsustainable. The counter filed by the respondents itself indicates that they have not issued any ban order and orally instructing to restrain the movement of the heavy vehicles more than 12 wheels, and hence, the respondents are directed to issue pass to the vehicle, which has valid permit issued under the motor Vehicle Act, with a condition relating to speed measurement while plying the vehicle inside the village roads.

11. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes/No
Index : Yes/No
Rmk



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N.SATHISH KUMAR, J.

Rmk

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