



W.P.(MD)No.22088 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.22088 of 2019

and

W.M.P.(MD)Nos.18862 & 18866 of 2019

N.Alexander

... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. By its Home Secretary,
Home (Ts.VII) Department,
Fort St.George,
Chennai.

2. The Regional Transport Authority,
(Collectorate)
Nagercoil,
Kanniyakumari District.

3. The Regional Transport Officer,
Marthandam,
Kanniyakumari District.

4. The Inspector of Police (Traffic)
Kulachal Police Station,
Kulachal,
Kanniyakumari District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned Government Order in G.O.Ms.No.849, Home (Tr.VII) Department dated 13.12.2011 and quash the same as illegal.

For Petitioner : Mr.P.Manikandan

For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned Government Order in G.O.Ms.No.849, Home (Tr.VII) Department dated 13.12.2011 on the premise that Serial No. 30 insofar as it provides for composition of offences covered Section 192 A of the Motor Vehicle Act, as being in excess of the power under Section 200 of the Motor Vehicle Act.

2. The above Government Order is challenged on the premise that Section 200 of the Act does not make reference to the Section 192 A of the Act, thus the Government Order providing for composition of offences under Section 192 A of the Act, is in conflict with Section 200 of the Act.



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3. It is submitted by both the learned Counsel for the petitioner as well as the respondents that the issue now stands resolved by the judgment of this Court in W.P.(MD)No.2662 of 2015 dated 23.11.2018, wherein, it is held as under:

"2. The grievance of the petitioner is only in respect of serial No.30 annexed to the said G.O incorporating Section 192-A(1) of the Motor Vehicles Act, 1988. The petitioner does not question the said Government Order in other aspects. His challenge is confined to Serial No.30 contained in the annexure to the impugned G.O Ms.No.849 dated 13.12.2011.

3. The submission of the learned counsel appearing for the petitioner is that Section 200 of the Motor Vehicles Act, 1988 enables composition of the offences mentioned in the 200(1). Section 200(1) of the Act reads as follows:

"Any offence whether committed before or after the commencement of this Act punishable under section 177, section 178, section 179, section 180, section 181, section 182, subsection (1) or sub-section (2) of section 183, section 184, section 186, 8[section 189, sub-section (2) of section 190.] section 191, section 192, section 194, section 196, or section 198, may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf."

4. Invoking the said power under Section 200(1) of the Motor Vehicles Act, 1988, the impugned Government Order has been issued. But, interestingly, Section 200(1) of the Act does not include the offences under Section 192 A of the Motor Vehicles Act, 1988. Therefore, it is obvious that the Government could not have authorized the traffic police not below the rank of the Sub Inspector of Police to levy spot fine even in respect of the offence under Section 192 A of the Act. Such an authorisation is clearly without the authority of law. Unless Section 200(1) is amended to include Section 192 A of the Act such an authorisation could not have been given.

5. The counter affidavit filed on behalf of the Government does not deal with this contention at all. A feeble submission was made that the writ petition deserves to be dismissed since the challenge has been mounted after a gap of



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three years. The said Government Order was issued in December 2011 whereas the writ petition was filed only in February, 2015. When the validity of the Government Order or statute is questioned, laches can never be a reply or defence. The authority of the government to issue the G.O in question in respect of the offence under Section 192 A has been raised. There is no answer Therefore, the order impugned in this writ petition is set aside insofar as Serial No.30 in the annexure including Section 192-A(1) is concerned. In all other respects, the impugned G.O is sustained.

6. This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed."

4. It is also submitted by the learned Counsel for the respondents that Section 200 of the Act stands amended by the Motor Vehicles (Amendment) Act, 2019 No.32 of 2019, whereby, consequent to the above amendment Section 200 of the Act which provides for composition of offences also covers offences under Section 192 A of the Act. Pursuant to the above amendment, G.O.(Ms).No.758 dated 19.10.2022 is stated to have been passed which in the view of the learned Government Advocate enables composition of offences covered under Section 192 A of the Act and reference to the same, in particular to Serial No.34 of the said notification. However, for the purpose of deciding the issue raised in the present writ petition, it may not be relevant to examine the amendment made vide Act 32 of 2019 and the consequential Government Order referred to by the learned Government Advocate. In view of the fact the the subject of challenge in the present writ petition is only as to the validity of



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the G.O.Ms.No.849, Home (Tr.VII) Department dated 13.12.2011 which as submitted by the both the learned Counsel for the petitioner as well as the respondents stands resolved by this Court in W.P.(MD)No.2662 of 2015, dated 23.11.2018.

5. In that view of the matter, this Writ Petition stands disposed of in terms of W.P.(MD)No.2662 of 2015, dated 23.11.2018 . There shall no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
jbr

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MOHAMMED SHAFFIQ, J.

jbr

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