



W.P.(MD) Nos.21955 and 22396 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)Nos.21955 and 22396 of 2023

and

W.M.P.(MD)No.18312 of 2023 in W.P.(MD)Nos.21955 of 2023

W.P.(MD)No.21955 of 2023:-

Dhanabal, S/o.Late.Yesuvadiyan

... Petitioner

Vs.

1.The District Collector,
Tirunelveli, Tirunelveli District.

2.The Joint Commissioner,
Transport Department, Madurai.

3.The Deputy Commissioner,
Transport Department, Tirunelveli.

4.The Regional Transport Officer/Secretary,
Regional Transport Office,
N.G.O. Colony, Palayamkottai, Tirunelveli.

5.P.V.Kumaravel

6.K.Tharun

7.Ganesan

8.Isakkirajan

9.Aruna Rajeshwari

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus, directing the respondents 2 and 3 to conduct an enquiry based on the petitioner's objections dated 04.08.2023 and the petitioner's representation dated 04.09.2023.

For Petitioner : Mr.M.Maharaja

For R1 to R4 : Mr.S.P.Maharajan
Special Government Pleader

For R5, R6, R8 and R9 : No Appearance

For R7 : Mr.K.Hariharan

W.P.(MD)No.22396 of 2023:-

R.Aruna Rajeshwari

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Tirunelveli.

2.The Regional Transport Officer,
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus, directing the second respondent to dispose of the petitioner's joint application for transfer of town bus permit under Application No.03167/2023 dated 19.01.2023 as expeditiously as possible, within a time frame as may be fixed by this Court.



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For Petitioner : Mr.R.Rajeshkumar
For Respondents : Mr.S.P.Maharajan
Special Government Pleader

COMMON ORDER

These Writ Petitions are being disposed of by this common order.

2. W.P.(MD)No.22396 of 2023 has been filed for issuance of a Writ of Mandamus, directing the second respondent to dispose of the petitioner's joint application for transfer of town bus permit under Application No.03167/2023, dated 19.01.2023.

3. W.P.(MD)No.21955 of 2023 has been filed by a third party objecting to the application filed for transfer of permit by the petitioner in W.P.(MD)No.22396 of 2023.

4. The learned counsel for the seventh respondent in W.P.(MD)No. 21955 of 2023 would submit that the prayer of the petitioner in W.P. (MD)No.21955 of 2023 is not maintainable, as he has no right / *locus* to give objection to the application filed for transfer of town bus permit as a



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third party. In this connection, the learned counsel for the seventh respondent has placed reliance on the decision of this Court rendered in **M.Muthusami Thevar (deceased), Rep. by his Legal Representatives, N.Sundaram and another vs. The Regional Transport Authority, Coimbatore and others** [W.P.Nos.2619 and 2620 of 1996, dated 27.06.2003]. A specific reference was made to Paragraph Nos.4, 7, 10, 13 and 15 of the said decision, which read as under:-

"4. The main contention raised in both the writ petitions is to the effect that as per the provisions contained in the Motor Vehicles Act and the Rules made thereunder, notice is required to be issued to the applicant seeking permission to transfer the permit and the vehicle and no notice is contemplated to be issued to any other third party and as such the objector had no locus standi to raise any objection nor file any appeal. It is further contended that as a matter of fact notice had been issued to the objector.

7. A combined reading of the provisions contained in Section 82(1) and the Rules makes it clear that only with a view to ascertain about the question relating to trafficking in permit or qualification of the transferee for the grant of new permit, enquiry is to be held and notice is to be issued. The provision do not contemplate issuance of any notice to any third person claiming right over the vehicle/ permit.

10. A comparison of the old Rules and the present Rules rather makes it amply clear that under the present Rules there is no scope for giving opportunity of hearing to any other person including an operator on the existing route. The Rules do not



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contemplate giving of any opportunity of hearing to a third party raising objections relating to title or ownership over the vehicle in question.

13. Once it is held that notice is not required to be issued to third party claiming right over the vehicle/permit and notice was only required to be issued to the applicants and the 'objector' had no locus standi to raise any objection, such a person cannot be treated as a person aggrieved to file any appeal. The appeal at the instance of such objector was not maintainable. On this ground alone, the writ petitions are bound to be allowed and the order of the appellate authority is liable to be quashed.

15. Thus, in either view of the matter, the order passed by the appellate authority cannot be sustained and is liable to be quashed. Since permission having been granted by the original transport authority, it must be taken that permit stood transferred in the name of the transferee. It is however made clear that any dispute relating to right, title and interest in respect of the transport business or the vehicle in question has not been decided in these writ petitions and can be decided before the appropriate Civil Court in accordance with law."

5. In view of the above, these Writ Petitions are disposed of by directing the authority, namely, the District Collector, Tirunelveli District, the first respondent herein, to dispose of the application of the petitioner in W.P.(MD)No.22396 of 2023, dated 19.01.2023, taking note of the decision of this Court rendered in **M.Muthusami Thevar (deceased), Rep. by his Legal Representatives, N.Sundaram and another** referred



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to supra. This exercise shall be carried out by the first respondent as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order, by strictly following the above said decision of this Court. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
smn2

10.06.2024

To

- 1.The District Collector,
Tirunelveli, Tirunelveli District.
- 2.The Joint Commissioner,
Transport Department, Madurai.
- 3.The Deputy Commissioner,
Transport Department, Tirunelveli.
- 4.The Regional Transport Officer/Secretary,
Regional Transport Office,
N.G.O. Colony, Palayamkottai, Tirunelveli.



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C.SARAVANAN, J.

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Common order in
W.P.(MD) Nos.21955 and 22396 of 2023

10.06.2024