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W.P.No.25306 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2025

CORAM :

THE HONOURABLE Ms. JUSTICE P.T.ASHA.

W.P.No.25306 of 2012
and M.P.No.1 of 2012

1.Union of India rep. by Chief Secretary to Government,
Puducherry.

2.The Secretary, State Transport Authority,
Puducherry.

... Petitioners

Vs.

1.The State Transport Appellate Tribunal,
Puducherry.

2.V. Jayaprakash

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records of the first respondent in MVA.No.11/11 dated 07.02.2012 and to quash the same.

For Petitioner 1	:	Mr.R.Sreedhar, Additional Government Pleader, Pondicherry
For Petitioner 2	:	V.Vasanthakumar
For Respondent 1	:	Tribunal
For Respondent 2	:	Mr.Krishnappan, Senior Counsel for M/s.R.Swarnalatha



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ORDER

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This matter was argued before the Hon'ble Mr. Justice J.Sathya Narayana Prasad and it is stated by both the learned counsels that the learned Judge had dismissed the writ petition in the open Court in their presence and thereafter dictated the detailed order. However, before signing the order, the Learned Judge had passed away. Having perused the records, this court agrees with the order as dictated by the learned Judge and both the counsels consent that the said order be adopted.

2. The petitioner has filed this petition to call for the records of the first respondent in MVA.No.11/11 dated 07.02.2012 and to quash the same.

3. The case of the petitioners is that the Government of Puducherry upon a decision to introduce mini buses in various parts of Union territory of Puducherry, issued an order in G.O.Ms.No.24/TD/Sectt-wing/2000-2001 dated 09.02.2001 and applications were called for on 14.02.2001 from eligible and interested candidates who satisfied the qualification set forth in the Government order. However, no applications were received in respect



of certain rules. Therefore, the Government once again decided to call for applications for all routes on 19.11.2004. In respondent, 464 applications were received and the same were placed before the second petitioner/the State Transport Authority, Puducherry. Being a policy matter of the Government, the entire matter was referred to the Government, and the Government decided not to grant any mini bus permits vide proceedings No.5327/TD/TP10/2006 dated 25.07.2007. Challenging the said order, some of the applicants preferred appeals in M.V.A.Nos.7 of 2006, 4 of 2006, 11 of 2006, 9 of 2006 and 12 of 2006, before the first respondent, seeking to quash the same.

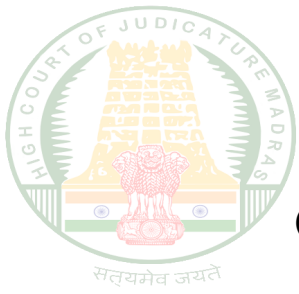
3.1. Pursuant to the filing of an appeals, the first respondent passed a common judgment dated 30.06.2011 setting aside the order dated 25.07.2007 and remitting the matter to the second petitioner/The Secretary, State Transport Authority for fresh consideration, within a period of two months from the date of receipt of the order. Again, the second petitioner considered the same on merits and rejected the grant of permits vide proceedings No.5327/TD/TP-1/2011 dated 08.09.2011. Aggrieved by the said order dated 08.09.2011, the appellants have preferred appeal before the first respondent



in MV.A.No.10, 11, 12, 13 & 14 of 2011. (the second respondent has preferred an appeal before the first respondent in MVA.No.11 of 2011) and the same was allowed by the first respondent vide order dated 07.02.2012 by setting aside the order dated 08.09.2011 and directing to second petitioner to grant Mini Bus permits. Challenging the said order dated 07.02.2012, the petitioners have come forward with the present writ petition.

4. Learned Additional Government Pleader for the petitioners submitted that the first respondent has failed to note that the terminal points of the routes are within the urban limits where the volume of vehicular traffic is already very high, causing sever traffic congestion. The grant of mini bus permits on these routes would only exacerbate the congestion, instead of facilitating the transport facilities of the public. The grant of mini bus permits for the routes are as follows:

- (i) Gorimedu to Government Press
- (ii) Kurumpampet HB Colony to Pondicherry new bus stand
- (iii) Sedarapet Industrial Estate to Villianur
- (iv) New Bus Stand to Solai Nagar Youth Hostel

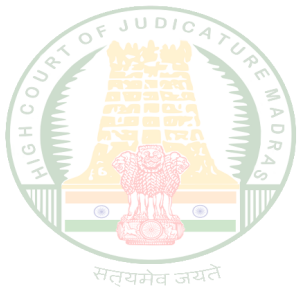


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(v) New Bus Stand to Solai Nagar Youth Hostel

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5. Learned Additional Government Pleader for the petitioners would further submit that the first respondent failed to note that the routes (i) Government Press to Gorimedu and (ii) New Bus Stand to Solai Nagar Youth Hostel lies in the Puducherry to Gorimedu and Puducherry to Kanagachettikulam Sectors respectively. The number of stage carriages already plying in these sectors are 80 and 43 respectively. The route from Kurubapet HB Colony to New Bus Stand lies in the Puducherry to thirukkanur Sector (via) Muthirapalayam, where stage carriages are plying. The route from Sederapet Industrial Estate to Villianur lies in the Puducherry to Sederapet sector, where stage carriages are operating. It was contented that the existing stage carriages plying on these sectors cater to the transport need of the traveling public of these areas. Hence, there is no demand from the public for grant of additional permits to ply buses in these sectors. The grant of mini bus permits on these routes will be infructuous and leads to unhealthy competition among the operators, and would not serve the public interest.

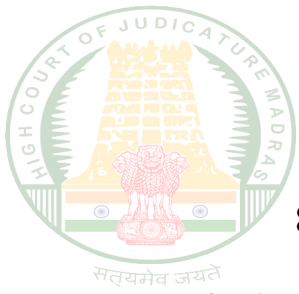


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6. Learned Additional Government Pleader for the petitioners would further submit that the Education Department has introduced special buses exclusively for students at a concessional rate of Rs.1/-, from destinations in and around Puducherry. These services have been functioning satisfactorily without any complaints. Furthermore, the Department has granted sufficient number of contract carriage permits to 'auto' and 'vikram' to ply within the urban limits of Puducherry region. Which adequately caters to the urgent need of the traveling public without any complaints.

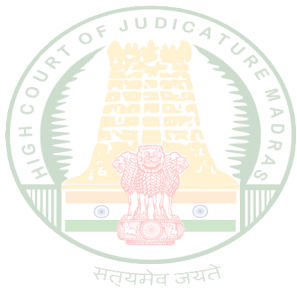
7. Learned Additional Government Pleader for the petitioners would further submit that M/s.Pondicherry Road Transport Corporation Ltd., a Government undertaking has commenced the operation of 26 low floor buses on the intra/urban routes under JnNURM Scheme, sponsored by the Central Government and 14 more buses are proposed to be operated under the said scheme, which would sufficiently cater to the need of transport facilities of the general public.



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8. Learned Additional Government Pleader for the petitioners would further submit that the first respondent has failed to note that the routes for grant of mini bus permits were identified by the Department in the year 2001. Due to subsequent developments in the transport facilities over the years, the route had become obsolete. Hence, the department has identified 15 new routes in Puducherry and 10 new routes in the Karaikal, where transport facilities are meager, for the purpose of granting of new permits. However, the grant of permits on these routes was stayed by this Court, in pursuant to the writ petitions filed by the stage carriage operators' Association in W.P.Nos.19860 & 19861 of 2009 & M.P.Nos.1 & 1 of 2009 and W.P.Nos.20247 of 2009 and M.P.Nos.2 of 2009. The Department has also initiated necessary action to refund the fees remitted by the applicants for grant of Mini Bus permit to the applicants', consequent to the rejection of applications.

9. Learned Additional Government Pleader for the petitioners have also filed a common additional affidavit dated 01.02.2025. For better appreciation, the relevant paragraphs are reads as follows:



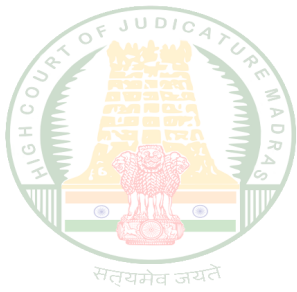
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“3. As per sub-section (2) of Section 99 of the Motor Vehicles Act, 1988 (Central Act No.59 of 1988), grant of any stage carriage permit to any private operator by the State Transport Authority (STA), Puducherry subsequent to the final publication of the Area Scheme Notified vide G.O.Ms.No.4 , dated 25.02.2015 of Transport Secretariat, Government of Puducherry and published vide Part-I of Extraordinary Gazette No.51, dated 22.06.2015, in exercise of the powers conferred under Section 99 read with Section 100 (2) of the Motor Vehicles Act, 1988 (Central Act No.59 of 1988) is totally ultra vires. Therefore, there is no possibility to consider the case of the respondents in writ petition Nos.25305-25309 of 2012 for the grant of stage carriage permits.

4. As per the proviso clause under sub-section (3) of Section 71 of the Motor Vehicles Act, 1988, while considering the applications for the grant of permits, the State Transport undertakings shall be given first preference. As the Puducherry Road Transport Corporation (PRTC) was intended to procure buses under Jawaharlal Nehru National Urban Renewal Mission (JNNRUM), a Govt. of India Scheme, the State Transport Authority, Puducherry considering the facts that the service of public transport should address the actual needs of general public, rather than making profit out of rendering of services. Whereas, the private operators are intending to make profits by curtailing routes and the trips during non peak hours. Thereby, the State Transport Authority, Puducherry has decided to grant the stage carriage permits to the State Transport undertaking i.e., PRTC, Puducherry.



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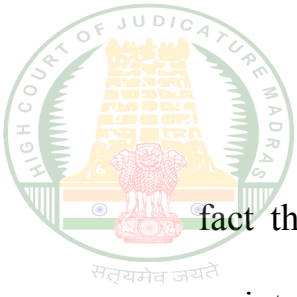
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6. Sub-Section (1) of Section 81 of the Motor Vehicles Act, 1988 is extracted as under:-

“81. Duration and renewal of permits. - (1) A permit other than a temporary permit issued under section 87 or a special permit issued under sub-section (8) of section 88 shall be effective from the date of issuance or renewal thereof for a period of five years.”

From the above statutory provision, it is apparent that any grant of permit shall be valid for a period of five years from the date of its grant. In that manner, any prospective grant of stage carriage permit to a private operator, for a retrospective period of 3 years between 07.02.2012 to 25.02.2015 is practically not feasible and also the power to grant any permit by the State Transport Authority, Puducherry to a private operator is ultra virus. Further, any grant of stage carriage permit to a private operator is also barred by sub-section (2) of Section 99 of the Motor Vehicles Act, 1988 (Central Act No.59 of 1988). Moreso, the State Transport Authority, Puducherry has got no concrete powers, consequent upon the notification of Area Scheme Notified vide G.O.Ms.No.4, dated 25.02.2015 of Transport Secretariat, Government of Puducherry.”

10. A counter affidavit has been filed by the second respondent on 09.03.2015. Learned senior advocate appearing for the second respondent would submit that the above writ petition is not maintainable, in view of the



fact that the petitioners cannot be termed as aggrieved persons entitled to maintain the writ petition. The State Transport Authority, Puducherry, is represented by its Chairman, who is the Special Secretary to the Government (Transport). The said Authority is a Statutory Authority constituted under the Motor Vehicles Act. Any Statutory Authority cannot be an aggrieved person to challenge the order of another statutory authority, namely the State Transport Appellate Tribunal, merely because the Order of the Original Authority has been reversed.

11. Learned senior advocate appearing for the second respondent would further submitted that the first petitioner, namely the Union of India represented by the Chief Secretary, cannot also maintain this writ petition, since the Chairman of the State Transport Authority is also the Special Secretary to the Government (Transport). The order passed by one Secretary to Government cannot be challenged by another Secretary of the same Government. It is further submitted that the application filed by the second respondent was earlier rejected by proceedings dated 25.07.2006, and on appeal, the first respondent by an order dated 08.09.2011, set-aside the rejection and remanded the matter for fresh consideration in the light of the



observation. The writ petitioners have accepted the said order of the tribunal and the order has become final. Therefore, once again the reason for rejecting the application is based on the same reasoning given by the Petitioner earlier on 25.06.2006 is impermissible. Therefore, it is submitted that the reasons given by the petitioner is contrary to the judgment of the first respondent and it would amount to disobedience of the order passed by the Appellate Tribunal. Hence, the writ petitions filed now are liable to be dismissed on the ground, that the same issues cannot be permitted to be re-agitated between the same parties.

12. Learned senior advocate appearing for the second respondent would further submit that the first respondent has clearly extracted the reasoning given by the petitioners in the impugned proceedings, are found that they are one and the same. The Tribunal has clearly considered the submissions made by the petitioner and based upon the provisions of the MV Act and Judgment of the Hon'ble Supreme Court and other High Courts, has provided detailed reasons for allowing the Appeal. Moreover, the Tribunal has not accepted the submissions regarding policy decision and other reasons



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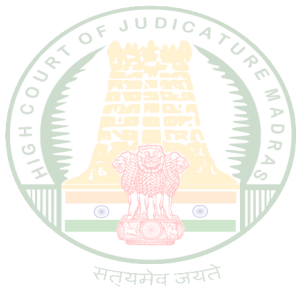
given in the Impugned order.

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13. Learned senior advocate appearing for the second respondent would further submit that the Tribunal has given a specific finding that there are no notified Approved Scheme in Puducherry region. Therefore, there cannot be any prohibition in granting the minibus permit. The Tribunal, after following the judgment of this Court, rightly observed that the power of the Appellate Authority is co- extensive with the power of the Original Authority. Therefore, the Tribunal was well within its jurisdiction to set aside the order and direct the grant the minibus permit.

14. Learned senior advocate appearing for the second respondent also placed reliance on the judgment of *the Hon'ble Supreme Court of India in the case of Sharif Ahmad Vs. Road Transport Authority, Meerut, reported in AIR 1978 Supreme Court 209.*

15. Heard the learned counsel on either side and perused the materials available on record.

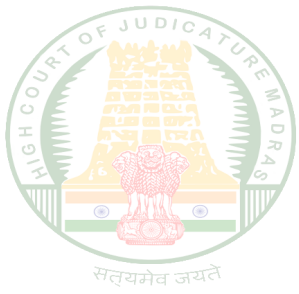


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16. The State Transport Appellate Tribunal by its order dated 07.02.2012, observed that “ the contention of the respondent that the existing services on the said routes are sufficient, that there is no demand by the traveling public, and that sufficient numbers of auto and Vikram permits have been granted as contract carriages, is against law, and has to be appreciated, merely because, as per the provisions of the Motor Vehicles Act, 1988, it is a legal fact that irrespective of the number of operators already in the field, the permits can be granted on the application by the qualified operators and the relevant portions of the aforesaid Tribunal order is extracted hereunder:

“13. The further argument of the learned counsel for the appellants that the Mini Bus contention of the respondent that the existing services on the said route is sufficient and there is no any demand by the traveling public and sufficient number of auto and Vikram permits were granted as contract carriage, is against law, has to be appreciated, merely because as far as the provisions of the M.V. Act 1988, it is the legal fact that irrespective of the number of operators already in the field the permits can be granted on the application by the qualified operators.

14. So far as the observation/reason regarding introduction of special buses exclusively to the students at concession rate and the buses under NURM Scheme sponsored



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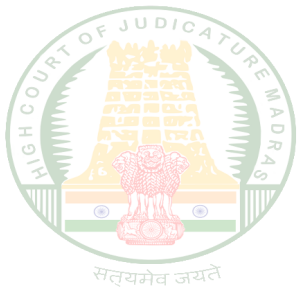


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by the Central Government, for rejecting the application, is concerned, it advanced by the learned counsel for the appellants that is the argument vehemently the special buses can only be satisfied with the students only and not the traveling public and those buses did, at times, not serve to the routes covered under these appeals, and that the serving such buses is not curtailed by applying Section 80 of the Motor Vehicles Act 1988 and since they will not cater the needs of traveling public at any time, and as pointed out by the learned Counsel for the appellants, it is very well seen that those routes covered under these appeals are always very busy.

16. It is also specific to point out from the earlier judgment for final touch up, of this judgment, as reiterated by the counsel appearing for the appellants. It is not the case of the respondent that the subject matter of routes are notified area or notified route in Puducherry region which are restricted as per Sec. 104 of the Act. For argument sake, if there is restriction on grant of permits u/s.104 of the Act, there is a proviso under it that where no application for a permit has been made by the State Transport undertaking in respect of any notified area or notified route in pursuance of an approved scheme, the State Transport Authority or the Regional Transport Authority, as the case may be, may grant temporary permits to any person in respect of such notified area or notified route subject to the condition. But, in the absence of such restriction u/s.104 of the Act, such proviso to Section 104 of the Act cannot be entertained to the Union Territory of Puducherry.

17. One can suo moto apply for a permit of any kind at any time; and the same cannot ordinarily be refused by the



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Transport Authority out of the provision of Section 80 and other Section of law under M.V. Act. 1988. It is not the case of the respondent that the applications in question are full of disqualification and adverse remarks regarding their status and other requirements stipulated under the M.V. Act. For the discussions stated above, the reasons stated in the impugned order for rejection of the permits are not materialized to be valid under eye of law.

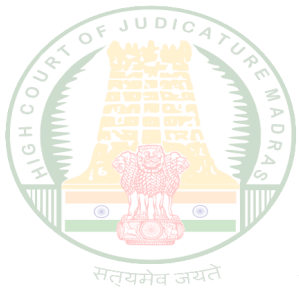
19. In the result, these appeals are allowed, but without costs. The impugned Order dated 08.09.2011 passed in proceedings No.5327/TD/TP1/2011 by the Respondent State Transport Authority, Puducherry is set aside. The appellants are granted with Mini Bus permits on the routes as specified above, and accordingly, the respondent authority is directed to issue the mini bus permits for the said routes to the appellants herein, according to the conditions provided under the Motor Vehicles Act 1988. Time for issue of permit two months."

17. It is pertinent to mention that the Gazette was published by the Government of Puducherry, Transport Department, vide G.O.Ms.No.4 dated 25.02.2015 and the relevant portion is extracted hereunder:

4. Maximum and minimum number of vehicles : (a) Maximum number : 400
proposed to be operated in the area by the Special (b) Minimum number : 50
Purpose Vehicle (SPV) to the exclusion, complete (c) Type : Semi Saloon, Single deck.
or partial, or otherwise, of other persons. (d) Seating capacity :

	Ordinary-Passenger	Mini-Bus
Maximum	80	25
Minimum	30	6

To the complete exclusion of other persons, other than Special Purpose Vehicle (SPV)/The State Transport Undertakings of Union territory of Puducherry and other States and the existing permits of small operators and also permits of Stage Carriage operators operating on Inter-State routes, whose permits are covered by Inter-State Agreement.



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18. The main contention of the petitioners is that, as per sub-section (2) of Section 99 of the Motor Vehicles Act, 1988 (Central Act No.59 of 1988), the grant of any stage carriage permit to any private operator by the State Transport Authority (STA), Puducherry subsequent to the final publication of the Area Scheme Notified vide G.O.Ms.No.4, dated 25.02.2015 of Transport Secretariat, Government of Puducherry and published vide Part-I of Extraordinary Gazette No.51, dated 22.06.2015, in exercise of the powers conferred under Section 99 read with Section 100 (2) of the Motor Vehicles Act, 1988 (Central Act No.59 of 1988) is totally unsustainable. It is submitted that the Tribunal had already considered the case of the second respondent regarding the grant of mini bus permits as early as on 07.02.2012, prior to the notification of the area scheme.

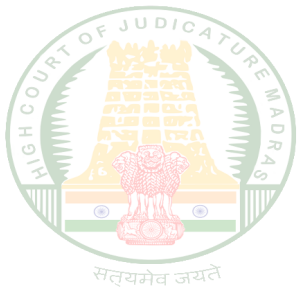
19. It is a well settled law that the Government Order will have only prospective effect, which it is expressly provided to have retrospective effect. If retrospective operation is to be given, it has applied on a case to case basis. In the instant case, the Tribunal vide its order dated 07.02.2012, had directed the second petitioner herein to issue mini bus permits for the said routes to the appellants therein, including the second respondent herein. According to



the conditions provided under the Motor Vehicles Act, 1988 the time stipulated for issuing the permit is two months, but the same was not issued by the second petitioner viz., The Secretary, State Transport Authority. The present writ petition has been filed by the petitioners only on 03.08.2012 i.e., after six months from the date of the order passed by the State Transport Appellate Tribunal, Puducherry.

20. *The Hon'ble Supreme Court of India in the case of Sharif Ahmad Vs. Road Transport Authority, Meerut, reported in AIR 1978 Supreme Court 209 as held as follows:*

“11. To our mind the problem does not present much difficulty. The applications filed by the appellants for grant of permits to them were rejected by the Regional Transport Authority in October, 1971. They were finally disposed of an permits were granted to them by the order of the Appellate Tribunal made on 19.02.1975. The consideration of the applications for grant of permits was no longer pending after the said order. What remained pending was a mere ministerial act to be performed by the Regional Transport Authority or by any delegate of that authority in accordance with R.44A of the U.P. Motor Vehicles Rules, 1940. According to the terms of the order of the Appellate Tribunal, nothing substantial or unsubstantial was to be decided by the Regional Transport

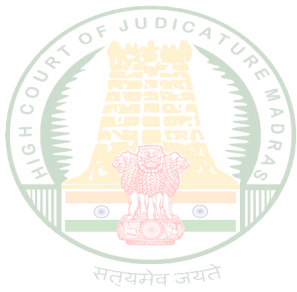


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Authority in connection with the grant of permits. The Regional Transport Authority could not say that it refused to grant the permit on one ground or the other. What was left to be done by it was only to find out whether a particular applicant had complied with the terms of the order and within the time granted by the Appellate Tribunal. If the terms were not complied with by the specified time the grant stood revoked not because the Regional Transport Authority could revoke it but because the Appellate Tribunal had specified it to be so. As already stated, all the applicants had complied with the terms of the Appellate order within could not be done because of the stay orders made by the High Court in the earlier writ petitions. In sum and substance, therefore, the appellants became entitled to the issuance of the permits in their favour by 31st March, 1975. It is difficult to understand as to in what sense their applications remained pending after 31st March, 1975 and how did they remain pending even in the remotest sense of the term after the vacation of the stay order by the High Court and the dismissal of the writ petitions on the 10th of September, 1975. when the notification dated September 24, 1975 was issued the position was absolutely clear that nothing in any sense was pending except that in the physical sense a paper containing the permit was not actually issued. Clause (2) of the said notification was not meant to cover nor did it cover a case of this kind. The Regional Transport Authority failed in its legal duty in not implementing the order of the Appellate Tribunal and issuing the permits as a result thereof. It was, therefore, just and proper to grant the writ of mandamus as asked for by the appellants.”



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21. The second contention of the petitioners is that though the Puducherry State Transport Authority Tribunal, Puducherry has passed the order on 07.02.2012, mini bus permits were not issued by the respondents. Hence, they contend that G.O.Ms.No.4 dated 25.02.2012 of the Transport Department is applicable to the petitioner's case.

22. However, the writ petition was filed in the month of August 2012, and pending the writ petition, the G.O.Ms.No.4 dated 25.02.2015 came into effect by Gazette publication dated 22.06.2015. Hence, the above said Government Order cannot be put against the second respondent, since the Government Order will have only prospective effect i.e., from 24.01.2025 and not prior to that. Accordingly, it is not applicable to the order passed by the Tribunal dated 07.02.2012.

23. The Hon'ble Supreme Court of India has held that “consideration of all the applications for grant of permits was no longer pending and the same had been disposed of prior to the issuance of a subsequent notification

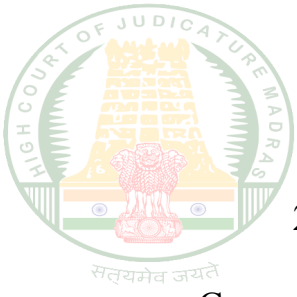


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imposing a bar, such subsequent notification cannot affect the permits already directed to be issued. The consideration of the application for grant of permits was no longer pending after the order passed on 19.02.1975. What remained pending was a mere ministerial act to be performed by the Regional Transport Authority or any delegate of that authority in accordance with the applicable rules.

24. In view of the above factual matrix of the case and the ratio laid down by the Hon'ble Supreme Court of India in the case of Sharif Ahmad Vs. Road Transport Authority, Meerut, the order passed by the State Transport Appellate Tribunal, Puducherry dated 07.02.2012 is liable to be confirmed. Accordingly, the same is hereby confirmed.

25. The second petitioner is directed to issue the permit within a period of 8 weeks (2 months) from the date of receipt of a copy of this order



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26. In the result, this writ petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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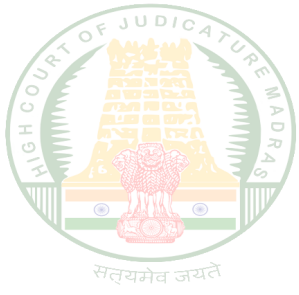
Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

To:

The State Transport Appellate Tribunal,
Puducherry.



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Vm/Srn

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